

DISASTER RESPONSE, RECOVERY, AND MITIGATION  
ENHANCEMENT ACT OF 2009

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JULY 22, 2010.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed  
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Mr. OBERSTAR, from the Committee on Transportation and  
Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 3377]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 3377) to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to enhance the Nation's disaster preparedness, response, recovery, and mitigation capabilities, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Disaster Response, Recovery, and Mitigation Enhancement Act of 2009".

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## TITLE I—MAJOR DISASTER AND EMERGENCY ASSISTANCE ADMINISTRATION

### SEC. 101. PRE-DISASTER HAZARD MITIGATION.

(a) ALLOCATION OF FUNDS.—Section 203(f) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(f)) is amended to read as follows:

“(f) ALLOCATION OF FUNDS.—

“(1) IN GENERAL.—The President shall award financial assistance under this section on a competitive basis and in accordance with the criteria in subsection (g).

“(2) MINIMUM AND MAXIMUM AMOUNTS.—In providing financial assistance under this section, the President shall ensure that the amount of financial assistance made available to a State (including amounts made available to local governments of the State) for a fiscal year—

“(A) is not less than the lesser of—

“(i) \$575,000; or

“(ii) the amount that is equal to one percent of the total funds appropriated to carry out this section for the fiscal year; and

“(B) does not exceed the amount that is equal to 15 percent of the total funds appropriated to carry out this section for the fiscal year.”

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 203(m) of such Act (42 U.S.C. 5133(m)) is amended to read as follows:

“(m) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$250,000,000 for each of fiscal years 2010, 2011, and 2012.”

(c) REFERENCES.—Section 203 of such Act (42 U.S.C. 5133) is amended—

(1) in the section heading by striking “**PREDISASTER**” and inserting “**PRE-DISASTER**”;

(2) in the subsection heading for subsection (i) by striking “**PREDISASTER**” and inserting “**PRE-DISASTER**”;

(3) by striking “**Predisaster**” each place it appears and inserting “**Pre-Disaster**”; and

(4) by striking “**predisaster**” each place it appears and inserting “**pre-disaster**”.

### SEC. 102. HEALTH BENEFITS FOR TEMPORARY EMPLOYEES.

Section 306 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5149) is amended by adding at the end the following:

“(c) HEALTH BENEFITS.—

“(1) IN GENERAL.—Notwithstanding any provision of title 5, United States Code, or related regulations limiting or prohibiting the provision of health benefits for temporary or intermittent employees, personnel appointed under subsection (b)(1) shall be eligible to enroll in the Federal Employees Health Benefits plan or any successor health benefits plan approved and administered by the Office of Personnel Management under terms and conditions set by the agency appointing the temporary personnel.

“(2) ANNUAL REPORT.—Not later than one year after the date of enactment of this subsection, and annually thereafter, the President shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the implementation of this subsection.”

### SEC. 103. DISPOSAL OF EXCESS PROPERTY TO ASSIST OTHER DISASTER SURVIVORS.

Title III of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5141 et seq.) is amended by adding at the end the following:

**“SEC. 327. DISPOSAL OF EXCESS MATERIALS, SUPPLIES, AND EQUIPMENT.**

“(a) IN GENERAL.—Notwithstanding any other provision of law, if the President determines that materials, supplies, or equipment acquired by the President pursuant to title IV or V for response or recovery efforts in connection with a major disaster or emergency is in excess of the amount needed for those efforts, the President may transfer the excess materials, supplies, or equipment, by sale, at a price that is fair and equitable, directly to a State, local government, or relief or disaster assistance organization for the purpose of—

“(1) assisting disaster survivors in other major disasters and emergencies; and

“(2) assisting survivors in incidents caused by a hazard that do not result in a declaration of a major disaster or emergency if—

“(A) the Governor of the affected State certifies that—

“(i) there is an urgent need for the materials, supplies, or equipment;

and

“(ii) the State is unable to provide the materials, supplies, or equipment in a timely manner; and

“(B) the President determines that the materials, supplies, or equipment is not readily available from commercial sources, except that this subparagraph shall not apply in the case of a transfer of perishable supplies.

“(b) DEPOSIT OF PROCEEDS.—Notwithstanding any other provision of law, any proceeds received under subsection (a) shall be deposited in the appropriate Disaster Relief Fund account.

“(c) HAZARD DEFINED.—In this section, the term ‘hazard’ has the meaning given that term by section 602.”

**SEC. 104. NATIONAL URBAN SEARCH AND RESCUE RESPONSE SYSTEM.**

(a) IN GENERAL.—Title III of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5141 et seq.) is further amended by adding at the end the following:

**“SEC. 328. NATIONAL URBAN SEARCH AND RESCUE RESPONSE SYSTEM.**

“(a) DEFINITIONS.—In this section, the following definitions apply:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Federal Emergency Management Agency.

“(2) AGENCY.—The term ‘Agency’ means the Federal Emergency Management Agency.

“(3) HAZARD.—The term ‘hazard’ has the meaning given that term by section 602.

“(4) NON-EMPLOYEE SYSTEM MEMBER.—The term ‘non-employee System member’ means a System member not employed by a sponsoring agency or participating agency.

“(5) PARTICIPATING AGENCY.—The term ‘participating agency’ means a State or local government, nonprofit organization, or private organization that has executed an agreement with a sponsoring agency to participate in the System.

“(6) SPONSORING AGENCY.—The term ‘sponsoring agency’ means a State or local government that is the sponsor of a task force designated by the Administrator to participate in the System.

“(7) SYSTEM.—The term ‘System’ means the National Urban Search and Rescue Response System to be administered under this section.

“(8) SYSTEM MEMBER.—The term ‘System member’ means an individual who is not a full-time employee of the Federal Government, who serves on a task force or on a System management or other technical team.

“(9) TASK FORCE.—The term ‘task force’ means an urban search and rescue team designated by the Administrator to participate in the System.

“(b) GENERAL AUTHORITY.—Subject to the requirements of this section, the Administrator shall continue to administer the emergency response system known as the National Urban Search and Rescue Response System.

“(c) FUNCTIONS.—In administering the System, the Administrator shall provide for a national network of standardized search and rescue resources to assist States and local governments in responding to hazards.

“(d) TASK FORCES.—

“(1) DESIGNATION.—The Administrator shall designate task forces to participate in the System. The Administrator shall determine the criteria for such participation.

“(2) SPONSORING AGENCIES.—Each task force shall have a sponsoring agency. The Administrator shall enter into an agreement with the sponsoring agency of each task force with respect to the participation of the task force in the System.

“(3) COMPOSITION.—

“(A) PARTICIPATING AGENCIES.—A task force may include, at the discretion of the sponsoring agency of the task force, one or more participating

agencies. The sponsoring agency of a task force shall enter into an agreement with each participating agency of the task force with respect to the participation of the participating agency on the task force.

“(B) OTHER INDIVIDUALS.—A task force may also include, at the discretion of the sponsoring agency of the task force, other individuals not otherwise associated with the sponsoring agency or a participating agency of the task force. The sponsoring agency of a task force may enter into a separate agreement with each such individual with respect to the participation of the individual on the task force.

“(e) MANAGEMENT AND TECHNICAL TEAMS.—The Administrator shall maintain such management teams and other technical teams as the Administrator determines are necessary to administer the System.

“(f) APPOINTMENT OF SYSTEM MEMBERS INTO FEDERAL SERVICE.—

“(1) IN GENERAL.—The Administrator may appoint a System member into Federal service for a period of service to provide for the participation of the System member in exercises, preincident staging, major disaster and emergency response activities, and training events sponsored or sanctioned by the Administrator.

“(2) NONAPPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Administrator may make appointments under paragraph (1) without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

“(3) RELATIONSHIP TO OTHER AUTHORITIES.—The authority of the Administrator to make appointments under this subsection shall not affect any other authority of the Administrator under this Act.

“(4) LIMITATION.—A System member who is appointed into Federal service under paragraph (1) shall not be deemed an employee of the United States for purposes other than those specifically set forth in this section.

“(g) COMPENSATION.—

“(1) PAY OF SYSTEM MEMBERS.—Subject to such terms and conditions as the Administrator may impose by regulation, the Administrator shall make payments to the sponsoring agency of a task force—

“(A) to reimburse each employer of a System member on the task force for compensation paid by the employer to the System member for any period during which the System member is appointed into Federal service under subsection (f)(1); and

“(B) to make payments directly to a non-employee System member on the task force for any period during which the non-employee System member is appointed into Federal service under subsection (f)(1).

“(2) REIMBURSEMENT FOR EMPLOYEES FILLING POSITIONS OF SYSTEM MEMBERS.—

“(A) IN GENERAL.—Subject to such terms and conditions as the Administrator may impose by regulation, the Administrator shall make payments to the sponsoring agency of a task force to reimburse each employer of a System member on the task force for compensation paid by the employer to an employee filling a position normally filled by the System member for any period during which the System member is appointed into Federal service under subsection (f)(1).

“(B) LIMITATION.—Costs incurred by an employer shall be eligible for reimbursement under subparagraph (A) only to the extent that the costs are in excess of the costs that would have been incurred by the employer had the System member not been appointed into Federal service under subsection (f)(1).

“(3) METHOD OF PAYMENT.—A System member shall not be entitled to pay directly from the Agency for a period during which the System member is appointed into Federal service under subsection (f)(1).

“(h) PERSONAL INJURY, ILLNESS, DISABILITY, OR DEATH.—

“(1) IN GENERAL.—A System member who is appointed into Federal service under subsection (f)(1) and who suffers personal injury, illness, disability, or death as a result of a personal injury sustained while acting in the scope of such appointment shall, for the purposes of subchapter I of chapter 81 of title 5, United States Code, be treated as though the member were an employee (as defined by section 8101 of that title) who had sustained the injury in the performance of duty.

“(2) ELECTION OF BENEFITS.—

“(A) IN GENERAL.—If a System member (or, in the case of the death of the System member, the System member’s dependent) is entitled—

“(i) under paragraph (1) to receive benefits under subchapter I of chapter 81 of title 5, United States Code, by reason of personal injury, illness, disability, or death, and

“(ii) to receive benefits from a State or local government by reason of the same personal injury, illness, disability, or death, the System member or dependent shall elect to receive either the benefits referred to in clause (i) or (ii).

“(B) DEADLINE.—A System member or dependent shall make an election of benefits under subparagraph (A) not later than one year after the date of the personal injury, illness, disability, or death that is the reason for the benefits or until such later date as the Secretary of Labor may allow for reasonable cause shown.

“(C) EFFECT OF ELECTION.—An election of benefits made under this paragraph is irrevocable unless otherwise provided by law.

“(3) REIMBURSEMENT FOR STATE OR LOCAL BENEFITS.—Subject to such terms and conditions as the Administrator may impose by regulation, in the event that a System member or dependent elects benefits from a State or local government under paragraph (2)(A), the Administrator shall reimburse the State or local government for the value of those benefits.

“(i) LIABILITY.—A System member appointed into Federal service under subsection (f)(1), while acting within the scope of the appointment, is deemed an employee of the Government under section 1346(b) of title 28, United States Code, and chapter 171 of that title, relating to tort claims procedure.

“(j) EMPLOYMENT AND REEMPLOYMENT RIGHTS.—With respect to a System member who is not a regular full-time employee of a sponsoring agency or participating agency, the following terms and conditions apply:

“(1) Service as a System member shall be deemed ‘service in the uniformed services’ for purposes of chapter 43 of title 38, United States Code, relating to employment and reemployment rights of individuals who have performed service in the uniformed services (regardless of whether the individual receives compensation for such participation). All rights and obligations of such persons and procedures for assistance, enforcement, and investigation shall be as provided for in such chapter.

“(2) Preclusion of giving notice of service by necessity of appointment under this section shall be deemed preclusion by ‘military necessity’ for purposes of section 4312(b) of title 38, United States Code, pertaining to giving notice of absence from a position of employment. A determination of such necessity shall be made by the Administrator and shall not be subject to judicial review.

“(k) LICENSES AND PERMITS.—If a System member holds a valid license, certificate, or other permit issued by any State or other governmental jurisdiction evidencing the member’s qualifications in any professional, mechanical, or other skill or type of assistance required by the System, the System member shall be deemed to be performing a Federal activity when rendering aid involving such skill or assistance during a period of appointment into Federal service under subsection (f)(1).

“(l) ADVISORY COMMITTEE.—

“(1) IN GENERAL.—The Administrator shall establish and maintain an advisory committee to provide expert recommendations to the Administrator in order to assist the Administrator in administering the System.

“(2) COMPOSITION.—The advisory committee shall be composed of members from geographically diverse areas, and shall include—

“(A) the chief officer or senior executive from at least 3 sponsoring agencies;

“(B) the senior emergency manager from at least 2 States that include sponsoring agencies; and

“(C) at least one representative recommended by the leaders of the task forces.

“(3) INAPPLICABILITY OF TERMINATION REQUIREMENT.—Section 14(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory committee under this subsection.

“(m) PREPAREDNESS COOPERATIVE AGREEMENTS.—

“(1) IN GENERAL.—Subject to the availability of appropriations for such purpose, the Administrator shall enter into an annual preparedness cooperative agreement with each sponsoring agency. Amounts made available to a sponsoring agency under such a preparedness cooperative agreement shall be for the following purposes:

“(A) Training and exercises, including training and exercises with other Federal, State, and local government response entities.

“(B) Acquisition and maintenance of equipment, including interoperable communications and personal protective equipment.

“(C) Medical monitoring required for responder safety and health in anticipation of and following a major disaster, emergency, or other hazard, as determined by the Administrator.

“(2) AVAILABILITY OF APPROPRIATIONS.—Notwithstanding section 1552(b) of title 31, United States Code, amounts made available for cooperative agreements under this subsection that are not expended shall be deposited in an Agency account and shall remain available for such agreements without fiscal year limitation.

“(n) RESPONSE COOPERATIVE AGREEMENTS.—The Administrator shall enter into a response cooperative agreement with each sponsoring agency, as appropriate, under which the Administrator agrees to reimburse the sponsoring agency for costs incurred by the sponsoring agency in responding to a major disaster or emergency.

“(o) OBLIGATIONS.—The Administrator may incur all necessary obligations consistent with this section in order to ensure the effectiveness of the System.

“(p) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There is authorized to be appropriated to carry out this section \$52,000,000 for each of fiscal years 2010, 2011, and 2012. Such sums shall be in addition to amounts made available from the Disaster Relief Fund for response cooperative agreements entered into under subsection (n).

“(2) ADMINISTRATIVE EXPENSES.—The Administrator may use not to exceed 6 percent of the funds appropriated for a fiscal year pursuant to paragraph (1) for salaries, expenses, and other administrative costs incurred by the Administrator in carrying out this section.”.

(b) CONFORMING AMENDMENTS.—

(1) APPLICABILITY OF TITLE 5, UNITED STATES CODE.—Section 8101(1) of title 5, United States Code, is amended—

(A) in subparagraph (D) by striking “and” at the end;

(B) by moving subparagraph (F) to appear after subparagraph (E);

(C) in subparagraph (F) by adding “and” at the end; and

(D) by inserting after subparagraph (F) the following:

“(G) an individual who is a System member of the National Urban Search and Rescue Response System during a period of appointment into Federal service pursuant to section 328 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act;”.

(2) INCLUSION AS PART OF UNIFORMED SERVICES FOR PURPOSES OF USERRA.—Section 4303 of title 38, United States Code, is amended—

(A) in paragraph (13) by inserting “, a period for which a System member of the National Urban Search and Rescue Response System is absent from a position of employment due to an appointment into Federal service under section 328 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act” before “, and a period”; and

(B) in paragraph (16) by inserting after “Public Health Service,” the following: “System members of the National Urban Search and Rescue Response System during a period of appointment into Federal service under section 328 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act;”.

#### SEC. 105. DISASTER RELIEF FUND.

Title III of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5141 et seq.) is further amended by adding at the end the following:

##### “SEC. 329. DISASTER RELIEF FUND.

“(a) IN GENERAL.—There is in the Treasury a fund known as the Disaster Relief Fund.

“(b) DEPOSITS AND CREDITS.—The Fund shall consist of amounts appropriated and credited to the Fund pursuant to this Act.

“(c) ELIGIBLE USES OF FUND.—Amounts in the Fund shall be available to the President, as provided in advance in appropriations Acts—

“(1) to provide assistance in response to a major disaster or emergency pursuant to titles IV and V; and

“(2) for programs and activities of the Federal Emergency Management Agency that support the provision of such assistance, including readiness and other programs and activities that are not readily attributable to a single major disaster or emergency.

“(d) LIMITATION.—Amounts made available from the Fund for programs and activities referred to in subsection (c)(2) may not exceed \$350,000,000 in any fiscal year.

“(e) ANNUAL REPORT.—On or before the date on which the President submits the budget of the United States to the Congress under section 1105 of title 31, United States Code, the President shall submit each year to the Committee on Transpor-

tation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the uses of the Fund in the previous fiscal year.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund such sums as may be necessary.

“(g) AVAILABILITY OF AMOUNTS.—Amounts in the Fund shall remain available until expended.”

## **TITLE II—MAJOR DISASTER AND EMERGENCY ASSISTANCE PROGRAMS**

### **SEC. 201. ADDITIONAL MITIGATION ASSISTANCE.**

(a) IN GENERAL.—Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c) is amended by adding at the end the following:

“(d) ADDITIONAL MITIGATION ASSISTANCE.—

“(1) IN GENERAL.—If, as of the date of the declaration of a major disaster, the Governor of the affected State has submitted to the President a certification under paragraph (2), and the State is in compliance with updating procedures established under paragraph (3), the President may increase the maximum total of contributions under this section for the major disaster, as specified in subsection (a) and section 322(e), by an amount equal to 4 percent of the estimated aggregate amount of grants to be made (less any associated administrative costs) under this Act with respect to the major disaster.

“(2) SUBMISSION OF CERTIFICATION.—To be eligible for increased contributions under paragraph (1), a State shall submit to the President, subject to the approval of the President, a certification that the State’s building code—

“(A) is consistent with the most recent version of a nationally recognized model building code;

“(B) has been adopted by the State within 6 years of the most recent version of the nationally recognized model building code;

“(C) uses the nationally recognized model building code as a minimum standard; and

“(D) is being actively enforced by the State.

“(3) PERIODIC UPDATES.—

“(A) IN GENERAL.—A Governor of a State that has submitted a certification under paragraph (2) shall update the State’s building code and re-submit a certification under paragraph (2) at least once every 6 years.

“(B) DEADLINES.—The President shall issue regulations establishing procedures for State compliance with the requirements of subparagraph (A). The procedures shall be consistent with requirements related to mitigation planning under section 322.

“(4) DEFINITIONS.—In this subsection, the following definitions apply:

“(A) ACTIVELY ENFORCE.—The term ‘actively enforce’ means jurisdictional execution of all phases of a State building code in the process of examination and approval of construction plans, specifications, and technical data and the inspection of new construction or renovation with respect to natural hazards.

“(B) NATIONALLY RECOGNIZED MODEL BUILDING CODE.—The term ‘nationally recognized model building code’ means a building code for residential and commercial construction and construction materials that—

“(i) has been developed and published by a code organization in an open consensus type forum with input from national experts; and

“(ii) is based on national structural design standards that establish minimum acceptable criteria for the design, construction, and maintenance of residential and commercial buildings for the purpose of protecting the health, safety, and general welfare of the building’s users against natural disasters.

“(C) STATE BUILDING CODE.—The term ‘State building code’ means requirements and associated standards for residential and commercial construction and construction materials that are implemented on a statewide basis by ordinance, resolution, law, housing or building code, or zoning ordinance. At a minimum, such requirements and associated standards shall apply—

“(i) to construction-related activities of residential building contractors applicable to single-family and 2-family residential structures; and

“(ii) to construction-related activities of engineers, architects, designers, and commercial building contractors applicable to the structural safety, design, and construction of commercial, industrial, and multi-family structures.

“(5) REGULATIONS.—The President, acting through the Administrator of the Federal Emergency Management Agency, shall issue such regulations as may be necessary to carry out this subsection.”.

(b) CRITERIA FOR ASSISTANCE AWARDS.—Section 203(g) of such Act (42 U.S.C. 5133(g)) is amended—

- (1) by striking “and” at the end of paragraph (9);
- (2) by redesignating paragraph (10) as paragraph (11); and
- (3) by inserting after paragraph (9) the following:

“(10) in the case of a State, whether the State has in effect and is actively enforcing a State building code in a manner consistent with section 404(d); and”.

**SEC. 202. TEMPORARY MORTGAGE AND RENTAL PAYMENTS.**

Section 408(c) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174(c)) is amended by adding at the end the following:

“(5) TEMPORARY MORTGAGE AND RENTAL PAYMENTS.—The President may provide assistance on a temporary basis in the form of mortgage or rental payments to or on behalf of individuals and families who, as a result of financial hardship caused by a major disaster, are at imminent risk of dispossession or eviction from a residence by reason of foreclosure of any mortgage or lien, cancellation of any contract for sale, or termination of any lease, entered into prior to such disaster. Such assistance shall be provided for the duration of the period of financial hardship, but not to exceed 18 months of assistance or the maximum amount of assistance that is authorized to be provided pursuant to subsection (h).”.

**SEC. 203. CLARIFICATION OF GRANT AUTHORITY.**

(a) SECTION 418.—Section 418 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5185) is amended—

- (1) by striking the section heading and all that follows through “The President” and inserting the following:

**“SEC. 418. EMERGENCY COMMUNICATIONS.**

“(a) IN GENERAL.—The President”;

- (2) by inserting “to provide assistance, including financial assistance, equipment, supplies, and personnel, in order” before “to establish”; and
- (3) by adding at the end the following:

“(b) FEDERAL SHARE.—The Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of such assistance.”.

(b) SECTION 419.—Section 419 of such Act (42 U.S.C. 5186) is amended—

- (1) by striking the section heading and all that follows through “The President” inserting the following:

**“SEC. 419. EMERGENCY PUBLIC TRANSPORTATION.**

“(a) IN GENERAL.—The President”;

- (2) by inserting “to provide assistance to a State or local government, including financial assistance, equipment, supplies, and personnel, in order” before “to provide” the first place it appears;
- (3) by striking “a major” and inserting “an emergency or major”; and
- (4) by adding at the end the following:

“(b) FEDERAL SHARE.—The Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of such assistance.”.

(c) SECTION 309.—Section 309(b) of such Act (42 U.S.C. 5152(b)) is amended by inserting “, including grant agreements,” after “agreements”.

**SEC. 204. CASE MANAGEMENT SERVICES.**

(a) CASE MANAGEMENT SERVICES.—Section 426 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5189d) is amended—

- (1) by striking “qualified private organizations” and inserting “qualified relief or disaster assistance organizations”; and
- (2) by striking “services, to victims” and inserting “services to survivors”.

(b) CASE MANAGEMENT PLAN.—

- (1) IN GENERAL.—Not later than one year after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency shall implement a plan to ensure that the Federal Emergency Management Agency is the lead Federal agency in coordinating and managing case management services referred to in section 426 of the Robert T. Stafford Disaster Relief and

Emergency Assistance Act (42 U.S.C. 5189d) for survivors of a major disaster. To assist in providing such case management services, the Administrator may use State or local government agencies or qualified relief or disaster assistance organizations.

(2) REPORT.—Not later than 30 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report that reviews in detail the actions the Administrator is taking—

(A) to ensure that the Federal Emergency Management Agency is the lead agency in coordinating and managing case management services for survivors of a major disaster; and

(B) to involve qualified relief or disaster assistance organizations referred to in section 426 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5189d) to assist in providing case management services.

**SEC. 205. HOUSEHOLD PETS AND SERVICE ANIMALS.**

(a) EMERGENCY ASSISTANCE.—Section 502(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5192(a)) is amended—

(1) by striking “and” at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting “; and”; and

(3) by adding at the end the following:

“(9) provide assistance for rescue, care, shelter, and essential needs—

“(A) to individuals with household pets and service animals; and

“(B) to such pets and animals.”.

(b) TECHNICAL CORRECTIONS.—Section 403(a)(3) of such Act (42 U.S.C. 5170b(a)(3)) is amended—

(1) in subparagraph (B) by striking “medical equipment,,” and inserting “medical equipment,;” and

(2) by striking the second subparagraph (J), as added by section 4 of Public Law 109–308 (120 Stat. 1726).

**SEC. 206. STORAGE, SALE, TRANSFER, AND DISPOSAL OF HOUSING UNITS.**

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of FEMA.

(2) EMERGENCY; MAJOR DISASTER.—The terms “emergency” and “major disaster” have the meanings given such terms in section 102 of the Stafford Act (42 U.S.C. 5122).

(3) FEMA.—The term “FEMA” means the Federal Emergency Management Agency.

(4) HAZARD.—The term “hazard” has the meaning given such term in section 602 of the Stafford Act (42 U.S.C. 5195a).

(5) SUITABLE CONDITION.—The term “suitable condition” means, with respect to a temporary housing unit, a unit that satisfies, as determined by the Administrator, the criteria of disposal condition code 1, 4, or 7 under section 102–36.240 of title 41, Code of Federal Regulations, as in effect on the date of enactment of this Act.

(6) STAFFORD ACT.—The term “Stafford Act” means the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(b) NEEDS ASSESSMENT; ESTABLISHMENT OF CRITERIA.—Not later than 3 months after the date of enactment of this Act, the Administrator shall—

(1) complete an assessment to determine the number of temporary housing units that FEMA needs to maintain in stock to respond appropriately to emergencies or major disasters occurring after the date of enactment of this Act; and

(2) establish criteria for determining whether the individual temporary housing units stored by FEMA are in suitable condition.

(c) PLAN.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator shall establish a plan for—

(A) storing the number of temporary housing units that FEMA needs to maintain in stock, as determined by the Administrator under subsection (b)(1);

(B) selling, transferring, donating, or otherwise disposing of the temporary housing units in the inventory of FEMA, as of the date of enactment of this Act, that—

- (i) are in excess of the number of temporary housing units that FEMA needs to maintain in stock, as determined by the Administrator under subsection (b)(1); and
  - (ii) are in suitable condition, as determined by the Administrator based on the criteria established under subsection (b)(2); and
  - (C) disposing of temporary housing units in the inventory of FEMA, as of the date of enactment of this Act, that the Administrator determines are not in suitable condition, as determined by the Administrator based on the criteria established under subsection (b)(2).
- (2) METHOD FOR DISPOSAL OF TEMPORARY HOUSING UNITS THAT ARE NOT IN SUITABLE CONDITION.—Disposals of temporary housing units pursuant to paragraph (1)(C) shall be made by the Administrator of General Services in a manner that ensures that the trailers are not able to be used for housing and are salvaged or scraped.
- (3) IMPLEMENTATION.—
- (A) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Administrator shall begin to implement the plan established under paragraph (1).
  - (B) COMPLETION OF DISPOSAL OF UNITS.—Not later than 2 years after the date of enactment of this Act, the sale, transfer, donation, or other disposal of all units under paragraphs (1)(B) and (1)(C) that the Administrator has determined are not necessary to maintain in stock shall be completed.
- (4) REPORT.—
- (A) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, and every 3 months thereafter until the sale, transfer, donation, or other disposal of all units under paragraphs (1)(B) and (1)(C) is complete, the Administrator shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the actions that the Administrator has taken to establish and implement the plan established under paragraph (1).
  - (B) REQUIRED INFORMATION.—In each report submitted under subparagraph (A), the Administrator shall document the number of temporary housing units remaining in the inventory of FEMA and the number of units sold, transferred, donated, and otherwise disposed of pursuant to this section.
- (5) UPDATE.—The Administrator shall update the plan established under paragraph (1) as necessary to ensure that the Administrator maintains in the inventory of FEMA only those temporary housing units that—
- (A) are needed to respond appropriately to emergencies or major disasters; and
  - (B) are in suitable condition.
- (d) TRANSFER OF TEMPORARY HOUSING UNITS TO STATES.—
- (1) IN GENERAL.—Notwithstanding section 408(d)(2) of the Stafford Act (42 U.S.C. 5174(d)(2)), and subject to the requirements of paragraph (2), the Administrator may transfer or donate to States, on a priority basis, pursuant to subsection (c)(1)(B), excess temporary housing units in the inventory of FEMA that are in suitable condition.
  - (2) STATE REQUESTS.—
- (A) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, a State may submit to the Administrator a request to receive excess temporary housing units under paragraph (1).
  - (B) ELIGIBILITY.—A State shall be eligible to receive excess temporary housing units under paragraph (1) if the State agrees—
    - (i) to use the units to provide temporary housing to survivors of incidents that are caused by hazards and that the Governor of the State determines require State assistance;
    - (ii) to pay to store and maintain the units in suitable condition;
    - (iii) to test the units for formaldehyde;
    - (iv) to ensure that the formaldehyde levels of the units do not exceed the threshold determined acceptable by the State before making the units available to house survivors of an incident;
    - (v) in the event of a major disaster or emergency declared for the State by the President under the Stafford Act, to make the units available to the President or to use the units to provide housing directly to survivors of the major disaster or emergency in the State;
    - (vi) to comply with the nondiscrimination provisions of section 308 of the Stafford Act (42 U.S.C. 5151); and
    - (vii) to obtain and maintain hazard and flood insurance on the units.

(C) INCIDENTS.—The incidents referred to in subparagraph (B)(i) may include incidents that do not result in a declaration of a major disaster or emergency by the President under the Stafford Act.

(3) DISTRIBUTION.—

(A) ESTABLISHMENT OF PROCESS.—The Administrator shall establish a process—

- (i) to review requests submitted by States under paragraph (2); and
- (ii) to distribute excess temporary housing units that are in the inventory of FEMA that are in suitable condition.

(B) ALLOCATION.—If the number of temporary housing units requested by States under paragraph (2) exceeds the number of excess temporary housing units available, the Administrator shall allocate the available units among the States that have submitted a request.

(4) REMAINING TEMPORARY HOUSING UNITS.—Temporary housing units that are not transferred or donated under the process established under paragraph (1) shall be sold, transferred, donated, or otherwise disposed of subject to the requirements of section 408(d)(2) of the Stafford Act (42 U.S.C. 5174(d)(2)) and other applicable provisions of law.

(5) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to affect section 689k of the Post-Katrina Emergency Management Reform Act of 2006 (120 Stat. 1456). For purposes of that section, a transfer or donation to a State of a temporary housing unit under paragraph (1) shall be treated as a disposal to private individuals or households under section 408 of the Stafford Act (42 U.S.C. 5174).

**SEC. 207. OTHER METHODS OF DISPOSAL.**

Section 408(d)(2)(B) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174(d)(2)(B)) is amended—

- (1) in clause (i) by striking “or”;
- (2) in clause (ii) by striking the period at the end and inserting “; or”;
- (3) by adding at the end the following:

“(iii) may be sold directly to a State or other governmental entity or to a voluntary organization for the sole purpose of providing temporary housing to disaster victims in disasters and incidents caused by a hazard (as such term is defined in section 602) that do not result in a declaration of a major disaster or emergency if, as a condition of the sale, the State, other governmental agency, or voluntary organization agrees—

“(I) to comply with the nondiscrimination provisions of section 308; and

“(II) to obtain and maintain hazard and flood insurance in the housing units.”

**SEC. 208. ESTABLISHMENT OF CRITERIA RELATING TO ADMINISTRATION OF HAZARD MITIGATION ASSISTANCE BY STATES.**

Not later than 180 days after the date of enactment of this Act, the President shall establish the criteria required under section 404(c)(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c(c)(2)).

**SEC. 209. USE OF FINANCIAL ASSISTANCE TO DISSEMINATE INFORMATION REGARDING COST-EFFECTIVE MITIGATION TECHNOLOGIES.**

Section 203(e)(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(e)(2)) is amended by inserting after “10 percent” the following: “(or up to 15 percent if approved by the President)”.

## TITLE III—OTHER MATTERS

**SEC. 301. EMERGENCY MANAGEMENT ASSISTANCE COMPACT GRANTS.**

(a) IN GENERAL.—Subtitle A of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196 et seq.) is amended by adding at the end the following:

**“SEC. 617. EMERGENCY MANAGEMENT ASSISTANCE COMPACT GRANTS.**

“(a) IN GENERAL.—The Administrator may make grants to provide for implementation of the Emergency Management Assistance Compact consented to by Congress in the joint resolution entitled ‘Joint resolution granting the consent of Congress to the Emergency Management Assistance Compact’ (Public Law 104–321; 110 Stat. 3877).

“(b) ELIGIBLE GRANT RECIPIENTS.—States and the Administrator of the Emergency Management Assistance Compact shall be eligible to receive grants under subsection (a).

“(c) USE OF FUNDS.—A grant received under this section shall be used—

“(1) to carry out recommendations identified in the Emergency Management Assistance Compact after-action reports for the 2004 and 2005 hurricane seasons;

“(2) to administer compact operations on behalf of States, as such term is defined in the compact, that have enacted the compact;

“(3) to continue coordination with the Agency and appropriate Federal agencies;

“(4) to continue coordination with States and local governments and their respective national organizations; and

“(5) to assist State and local governments, emergency response providers, and organizations representing such providers with credentialing the providers and the typing of emergency response resources.

“(d) COORDINATION.—The Administrator shall consult with the Administrator of the Emergency Management Assistance Compact to ensure effective coordination of efforts in responding to requests for assistance.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$4,000,000 for each of fiscal years 2010, 2011, and 2012. Such sums shall remain available until expended.”.

(b) REPEAL.—Section 661 of the Post-Katrina Emergency Management Reform Act of 2006 (6 U.S.C. 761) is repealed.

**SEC. 302. AUTHORITY TO ACCEPT AND USE GIFTS.**

The first sentence of section 701(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5201(b)) is amended by inserting “, through any means including grants,” before “bequests”.

**SEC. 303. INDIVIDUAL ASSISTANCE FACTORS.**

In order to provide more objective criteria for evaluating the need for assistance to individuals and to speed a declaration of a major disaster or emergency under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), not later than one year after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency, in cooperation with representatives of State and local emergency management agencies, shall review, update, and revise through rulemaking the factors considered under section 206.48 of title 44, Code of Federal Regulations, to measure the severity, magnitude, and impact of a disaster.

**SEC. 304. TECHNICAL CORRECTIONS TO REFERENCES.**

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) is amended—

(1) by redesignating the second section 425 (as added by section 607 of the Security and Accountability for Every Port Act of 2006 (120 Stat. 1941)) as section 427;

(2) in section 602(a) by striking paragraph (7) and inserting the following:

“(7) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Federal Emergency Management Agency.”; and

(3) by striking “Director” each place it appears and inserting “Administrator”, except—

(A) the second and fourth places it appears in section 622(c); and

(B) in section 626(b).

**SEC. 305. FUNCTIONS OF FEDERAL COORDINATING OFFICER.**

Section 302(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5143(b)) is amended—

(1) in paragraph (3) by striking “and” at the end;

(2) by redesignating paragraph (4) as paragraph (6); and

(3) by inserting after paragraph (3) the following:

“(4) not later than one month after the date of the declaration of a major disaster or emergency, make an initial appraisal of the types of recovery assistance needed that incorporates, as appropriate, recommendations of the Federal inter-agency disaster recovery task force established under section 330;

“(5) coordinate with State government officials the establishment of detailed short-term and long-term recovery plans and methods for implementation of such plans; and”.

**SEC. 306. FEDERAL INTERAGENCY DISASTER RECOVERY TASK FORCE.**

Title III of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5141 et seq.), as amended by this Act, is further amended by adding at the end the following:

**“SEC. 330. FEDERAL INTERAGENCY DISASTER RECOVERY TASK FORCE.**

“(a) ESTABLISHMENT.—The President shall establish a Federal interagency disaster recovery task force (hereinafter referred to in this section as the ‘task force’) to carry out the following:

“(1) Identify, maintain a catalogue of, and submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate at least annually a report describing the Federal programs that may be used to assist in recovery efforts after a major disaster or emergency and make such report available to the public on the Internet.

“(2) Ensure ongoing communication between the Federal departments and agencies determined by the President to administer the Federal programs referred to in paragraph (1) to enhance and expedite the recovery efforts of the Federal Government with respect to a major disaster or emergency.

“(b) CHAIRPERSON.—The Administrator of the Federal Emergency Management Agency shall serve as the chairperson of the task force.

“(c) MEMBERSHIP.—The task force shall include a representative of each Federal department and agency determined by the President to administer a program that may be used to assist in recovery efforts after a major disaster or emergency.

“(d) MEETING FREQUENCY.—The task force shall meet at least once each year.”.

**SEC. 307. DEBRIS REMOVAL.**

Section 407(d) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5173(d)) is amended by adding at the end the following: “The Federal share shall be increased by 5 percent for States and local governments that (1) have a debris management plan approved by the Administrator of the Federal Emergency Management Agency; and (2) have prequalified 2 or more debris and wreckage removal contractors before the date of declaration of the major disaster. To qualify for the increased Federal share under the preceding sentence, a debris management plan shall be resubmitted to the Administrator for approval every 4 years.”.

**SEC. 308. REVIEW OF REGULATIONS AND POLICIES.**

(a) IN GENERAL.—Not later than one year after the date of enactment of this Act, the President shall review regulations and policies relating to Federal disaster assistance to eliminate regulations the President determines are no longer relevant, to harmonize contradictory regulations, and to simplify and expedite disaster recovery and assistance.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the President shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report describing changes made to regulations as a result of the review required under subsection (a), together with any legislative recommendations relating thereto.

**SEC. 309. APPEALS PROCESS.**

Section 423(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5189a(b)) is amended to read as follows:

“(b) PERIOD FOR DECISION.—

“(1) IN GENERAL.—A decision regarding an appeal under subsection (a) shall be rendered within 60 days after the date on which the Federal official designated to administer such appeal receives notice of such appeal.

“(2) FAILURE TO SATISFY DEADLINE.—If the Federal official fails to satisfy the requirement under paragraph (1), the Federal official shall provide a written explanation of such failure to the applicant. The President shall transmit quarterly to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on such failures.”.

**SEC. 310. REPAIR, RESTORATION, AND REPLACEMENT OF DAMAGED FACILITIES.**

(a) AMOUNT REGARDING NOTIFICATION AND REPORTS.—Section 406(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(a)) is amended—

(1) in paragraph (4) by striking “\$20,000,000” and inserting “\$5,000,000”; and  
(2) by adding at the end the following:

“(5) CONTRIBUTION STATUS REPORTS.—Not less frequently than every 180 days, the President shall transmit to the Committee on Transportation and In-

frastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the status of applications, obligations, and contributions under this section with respect to each major disaster for which, on the date of the transmission of such report, a contribution is eligible to be requested or made under this section.”.

(b) **ISSUANCE OF REGULATIONS RELATING TO ELIGIBLE COSTS.**—Not later than 180 days after the date of enactment of this Act, the President shall issue and begin to implement the regulations required by section 406(e)(3)(C) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(e)(3)(C)) to provide for cost estimation procedures that expedite recovery and to reduce the costs and time for completion of recovery projects through the creation of financial and performance incentives

**SEC. 311. SPECIAL PROCEDURES FOR WIDESPREAD DAMAGE.**

(a) **IN GENERAL.**—Section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172) is further amended by adding at the end the following:

“(f) **SPECIAL PROCEDURES FOR WIDESPREAD DAMAGE.**—

“(1) **IN GENERAL.**—If, at the request of the Governor of a State, the President makes a determination that a major disaster has caused extensive and widespread damage and destruction in the State and that utilizing special procedures to expedite the repair, restoration, reconstruction, or replacement of eligible facilities under this section is in the public interest, the President may provide assistance under this section in connection with the major disaster utilizing the special procedures.

“(2) **CONDITIONS FOR ASSISTANCE.**—

“(A) **IN GENERAL.**—In providing assistance under the special procedures authorized by this subsection, the President may provide such assistance subject to any limitations or other conditions the President establishes by regulation.

“(B) **FACILITY RECOVERY SPENDING PLAN.**—To be eligible for assistance under the special procedures authorized by this subsection, a State shall submit to the President a facility recovery spending plan. Receipt of assistance under the special procedures shall be conditioned on a determination by the President that the plan is consistent with the requirements under this section.

“(3) **PLANNING ASSISTANCE.**—

“(A) **IN GENERAL.**—Not later than 10 days after the date the President makes an affirmative determination, at the request of a State, under paragraph (1) (or at a later date if requested by the Governor of the State), the President shall provide the State with assistance to develop a plan under paragraph (2)(B).

“(B) **TYPES OF ASSISTANCE.**—

“(i) **FINANCIAL ASSISTANCE.**—The President may provide financial assistance to a State to assist the development of a plan under paragraph (2)(B).

“(ii) **TECHNICAL ASSISTANCE.**—The President may provide, as appropriate, technical assistance to a State to assist the development of a plan under paragraph (2)(B).

“(iii) **EMERGENCY MANAGEMENT ASSISTANCE COMPACT.**—Assistance to develop a plan under paragraph (2)(B) may include assistance through the Emergency Management Assistance Compact described in section 617.

“(4) **LARGE IN-LIEU CONTRIBUTIONS.**—In providing assistance under the special procedures authorized by this subsection, notwithstanding the percentages specified in subsections (c)(1)(A) and (c)(2)(A), the President may make a contribution to a State or local government or person that owns or operates a private nonprofit facility for the purposes described in such subsections in an amount up to 100 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing a facility if the President determines a contribution in that amount is in the public interest.”.

(b) **REGULATIONS.**—

(1) **INTERIM FINAL RULE.**—Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency shall issue an interim final rule to establish special procedures under section 406(f) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as added by subsection (a). To the extent practicable, the Administrator shall consult with State and local emergency management agencies during the development of the interim final rule.

(2) FINAL RULE.—Not later than 2 years after the date the interim final rule described in paragraph (1) takes effect, the President shall issue a final rule to establish special procedures under section 406(f) of such Act, as added by subsection (a). In issuing the final rule, the President shall consider public comments, including the comments of State and local emergency management agencies, and the findings of the Inspector General under subsection (c).

(3) SPECIAL PROCEDURES.—In developing the regulations under this subsection, the Administrator shall consider, at a minimum, the following:

(A) The authority and procedures used by the Administrator to carry out sections 406(c), 406(e)(1), and 422 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(c), 5172(e)(1), and 5189).

(B) Whether modifications of or alternatives to procedures under section 406 of such Act are warranted in the event of widespread and extensive damage and destruction to expedite the repair, restoration, reconstruction, or replacement of eligible facilities and to assist a State in implementing a plan under subsection (f)(2)(B) of such section, as added by subsection (a).

(c) INSPECTOR GENERAL REPORT.—Not later than 90 days after the date the interim final rule issued under subsection (b)(1) takes effect, the Inspector General of the Department of Homeland Security shall submit to the Administrator of the Federal Emergency Management Agency a report on the implementation of section 406(f) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as added by subsection (a). The Inspector General may submit additional reports, as appropriate, including reports after the President utilizes the authority under such section. The reports shall include, as appropriate, recommendations on improved implementation of such section and any recommendations for legislation.

#### PURPOSE OF THE LEGISLATION

H.R. 3377, the “Disaster Response, Recovery, and Mitigation Enhancement Act of 2009”, as amended, amends the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) to improve the assistance that the Federal Government provides to States, local governments, and communities before, during, and after major disasters and emergencies.

#### BACKGROUND AND NEED FOR LEGISLATION

The Stafford Act (42 U.S.C. 5121 et seq.) is administered by the Federal Emergency Management Agency (FEMA) and provides the statutory authority for most Federal activities in the wake of a natural disaster or other emergency. While FEMA and the Stafford Act are best known for the response and recovery activities undertaken by FEMA after the President declares a major disaster, the Stafford Act also authorizes the Federal Government’s all-hazard preparedness and mitigation programs. Together, these programs help communities and citizens prepare for, respond to, recover from, and mitigate the broad range of hazards facing our nation.

In the wake of Hurricanes Katrina and Rita, Congress enacted significant changes affecting FEMA and the Stafford Act in the Post-Katrina Emergency Management Reform Act of 2006 (Title VI of P.L. 109–295). The Committee believes that systemic challenges remain at FEMA. On November 5, 2009, the Committee approved H.R. 1174, the “FEMA Independence Act of 2009”, to address these challenges and to reinstate FEMA as an independent, cabinet-level agency. The changes made by H.R. 3377, as amended, make improvements to FEMA’s programs that are needed regardless of whether FEMA is an independent agency or is a component within the Department of Homeland Security.

H.R. 3377, the “Disaster Response, Recovery, and Mitigation Enhancement Act of 2009”, as amended, enhances FEMA’s ability to administer emergency management at the Federal level. Specifi-

cally, the bill reauthorizes certain FEMA programs and activities, codifies programs that FEMA is currently administering under the authority of the Stafford Act but which are not expressly authorized in statute, amends eligibility under some FEMA programs, and makes technical corrections to the Stafford Act.

#### SUMMARY OF THE LEGISLATION

##### *Section 1. Short title*

Section 1 designates the short title of the bill as the “Disaster Response, Recovery, and Mitigation Enhancement Act of 2009”.

##### *Sec. 2. Table of contents*

Section 2 sets out the table of contents for the bill.

#### TITLE I—MAJOR DISASTER AND EMERGENCY ASSISTANCE ADMINISTRATION

##### *Sec. 101. Pre-Disaster Hazard mitigation*

Section 101 amends section 203 of the Stafford Act and makes changes to FEMA’s Pre-Disaster Mitigation (PDM) program.

Subsection (a) amends Section 203(f) by increasing the minimum allocation that each State receives under PDM from \$500,000 under current law to \$575,000, but maintains that each State shall receive the lesser of this amount or one percent of the total funds appropriated for the program in a given fiscal year. This section codifies the competitive aspects of the program as currently administered by FEMA, and retains a provision that any State may not receive more than 15 percent of the total funds appropriated for the fiscal year.

Subsection (b) authorizes appropriations for the PDM program of \$250 million for each of fiscal years 2010, 2011, and 2012. This subsection also eliminates the provision in Section 203(m) of the Stafford Act which sunsets the PDM program on September 30, 2010. Under current law, the PDM program terminates on September 30, 2010, unless Congress reauthorizes the program.

Subsection (c) changes references in Section 203 of the Stafford Act from “Predisaster” to “Pre-Disaster”, consistent with how FEMA refers to the program.

On April 30, 2008, the Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing on the PDM program. At this hearing, there was a discussion of the important role of building codes in reducing damage to buildings from natural hazards. The Committee instructs FEMA to consider adoption and enforcement of appropriate building codes in its grant criteria under the PDM program pursuant to section 203(g)(2) of the Stafford Act.

At the hearing, emergency management representatives also suggested that private non-profits (PNPs) be allowed to be sub-applicants and sub-grantees for the Pre-Disaster Mitigation program when local governments do not have the resources to perform this function on behalf of the PNPs. The Committee is not aware of any specific cases of this problem, and believes that if a local government is unable to serve as the sub-applicant and sub-grantee on

behalf of a PNP, an appropriate State agency may do so on its behalf.

One of the few criticisms of the Pre-Disaster Mitigation program has been the length of time that it takes for FEMA to obligate PDM funds.<sup>1</sup> The Committee notes that FEMA is taking steps to streamline grant processes and encourages FEMA to use all appropriate flexibility to expedite the disbursement of grant funds. The Committee notes that Congress specifically exempted the Pre-Disaster Mitigation program from grant administration and other requirements imposed in P.L. 110-53, the Implementing Recommendations of the 9/11 Commission Act of 2007, to avoid additional administrative requirements that would slow down the disbursement of funds.

The Committee is aware of the difficulties that several small localities in Minnesota faced when attempting to apply for PDM grants, due in part to the limited application timeframes. In addition, the Committee is aware of the challenges that communities in Minnesota and other small communities around the country have faced in completing well-developed applications due to the time-consuming requirement of using FEMA's eGrants application system. The Committee urges FEMA to develop a streamlined application process and continue to seek ways by which small communities can make the most efficient use of their limited resources during the application process.

*Sec. 102. Health benefits for temporary employees*

Section 102 amends section 306 of the Stafford Act by inserting a new subsection 306(c) to make temporary or intermittent employees hired by FEMA under the Stafford Act in response to a disaster eligible to enroll in the Federal Health Benefits Program. Currently, intermittent employees deployed in a disaster, known as Disaster Assistance Employees (DAEs), generally do not have access to employer-provided health insurance and must carry their own private insurance. According to FEMA, as of January 2010, only 770 out of 9,106 DAEs had health benefits through FEMA. These 770 employees were eligible for benefits through a narrow provision outside the Stafford Act because they were previously full-time Federal employees. Although FEMA has authority under section 306 to provide health insurance, it does not currently make available health insurance to more than 8,000 DAEs.<sup>2</sup> The Committee expects FEMA to use the discretion granted by this provision to apply appropriate limits on this authority, such as waiting periods for new employees and minimum annual service requirements.

*Sec. 103. Disposal of excess property to assist other disaster victims*

Section 103 adds a new section 327 to the Stafford Act to allow the President to sell excess materials, supplies, or equipment at a fair and equitable price to States, local governments, and relief or disaster assistance organizations (as those terms are described in

<sup>1</sup>Francis X. McCarthy and Natalie Keegan, "FEMA's Pre-Disaster Mitigation Program: Overview and Issues" (February 18, 2010), at 10.

<sup>2</sup>Pursuant to section 306, FEMA provides health insurance through the Federal Health Benefits Program (FEHB) to 2,574 other full-time employees, known as "CORE employees". According to FEMA, 2,574 out of 3,222 eligible CORE employees elected FEHB coverage.

section 309 of the Stafford Act) to assist victims of disasters and emergencies or other incidents that do not result in the declaration of a major disaster or emergency under the Stafford Act. The President may provide these materials, supplies, or equipment if the Governor of an affected State certifies an urgent need, and such State is unable to provide the materials, supplies, or equipment. The President must determine that the materials, supplies, or equipment are not available from commercial sources. However, in the case of perishable supplies, the President need not make this determination.

*Sec. 104. National Urban Search and Rescue Response System*

Section 104 of the bill adds a new section 328 to the Stafford Act to clarify the authority of the National Urban Search and Rescue System (US&R). The activities of the US&R system are currently authorized in various sections of the Stafford Act.<sup>3</sup>

US&R is a classic all-hazards disaster program. The program grew from the need to rescue victims from structural collapses during natural hazards such as earthquakes and hurricanes, and developed after the devastating results of the Mexico City Earthquake of 1985 and the Loma Prieta Earthquake that struck California in 1989. The National Urban Search and Rescue System has grown into a robust system of 28 teams comprised of State and local responders who work together to respond to major disasters and emergencies under the Stafford Act. The teams are also available to State and local governments to respond to incidents under their own authorities. US&R teams provide a very specialized and critical capability that our nation has called upon numerous times since the inception of the US&R system nearly two decades ago. For example, in 2008, 17 US&R teams were activated and deployed for potential rescue operations for Hurricane Gustav and 15 teams were activated and deployed for Hurricane Ike. In 2005, all 28 teams were deployed for Hurricane Katrina. In addition, six US&R task forces were deployed by the United States Agency for International Development for rescue operations in Haiti in response to the devastating earthquake that occurred in January 2010.

This section codifies existing workers' compensation and tort liability protections for US&R System members that are currently provided administratively by FEMA. It also provides new protections under the Uniformed Services Employment and Reemployment Rights Act (USERRA), and establishes licensing and professional liability protection. The Committee expects that FEMA will update its existing US&R program regulations, codified at 44 CFR Part 208, to incorporate the changes required by the enactment of this section.

*Sec. 105. Disaster Relief Fund*

Section 105 of the bill adds a new section 329 to the Stafford Act to authorize the existing Disaster Relief Fund and Disaster Readiness and Support Account. Funded by Congressional appropriations, the Disaster Relief Fund provides funding for FEMA's Federal disaster programs authorized by titles IV and V of the Stafford

<sup>3</sup>Specifically, 44 CFR 208.3(a) provides: "The Federal Emergency Management Agency established and operated the System under the authority of §§303, 306(a), 306(b), 403(a)(3)(B) and 621(c) of the Stafford Act."

Act. These programs consist of Individual Assistance, which includes funds available for housing, transportation, medical care, and replacement of personal property; and Public Assistance, which includes aid to State or local governments to pay part of the costs of rebuilding a community's damaged infrastructure. This section authorizes the Disaster Relief Fund, which was created in appropriations law and is not currently codified in the Stafford Act. This bill also authorizes the Disaster Readiness and Support Account, which was created in the late 1990s, and provides for ongoing capabilities that are not readily attributable to one specific disaster, including certain activities authorized by sections 302, 303 and 306(b) of the Stafford Act. Examples of such capabilities include processing and call centers for disaster assistance applications and the maintenance of emergency teams.

## TITLE II—MAJOR DISASTER AND EMERGENCY ASSISTANCE PROGRAMS

### *Sec. 201. Additional mitigation assistance*

Section 201 makes amendments to the Hazard Mitigation Grant Program (HMGP) and the Pre-Disaster Mitigation program in support of States that actively enforce approved building codes.

Subsection (a) amends section 404 of the Stafford Act by adding a new subsection (d) which provides for additional assistance under HMGP for States that actively enforce an approved building code throughout the State. Under current law, a State is eligible to receive up to 15 percent (subject to a sliding scale) of the estimated aggregate amounts of grants that the State is expected to receive under the Public Assistance and Individual Assistance programs, or in the case of a State with an enhanced mitigation plan under section 322(e) of the Stafford Act, 20 percent. Subsection (a) provides for an additional four percent; therefore, the total percentage that a State is eligible to receive under HMGP is increased to up to 19 percent, or 24 percent for a State with an enhanced mitigation plan under section 322(e) of the Stafford Act.

To receive the additional mitigation assistance under this provision, the State must certify that its building code is consistent with the most recent version of a nationally recognized model building code, that it has been adopted by the State within six years of the most recent version of that code, that the State uses that code as a minimum standard, and that it is being actively enforced within the State. This certification is subject to the approval of the President. This section requires that the State's building code be updated, and that the State resubmit its certification every six years. However, FEMA, in establishing requirements for certification, shall coordinate these requirements with the approval of State mitigation plans under section 322 of the Stafford Act.

Subsection (b) amends section 203 of the Stafford Act which authorizes the Pre-Disaster Mitigation program. Section 203(g) of the Stafford Act is amended to add to the criteria the President uses to determine when to provide technical or financial assistance whether the State has in effect and is actively enforcing a State building code, consistent with the new subsection 404(d) of the Stafford Act as added by subsection (a).

*Sec. 202. Temporary mortgage and rental payments*

Section 202 amends section 408 of the Stafford Act by restoring the Mortgage and Rental Assistance (MRA) program. Congress eliminated this program in the Disaster Mitigation Act of 2000 (P.L. 106-390). It is important to note that FEMA used this program extensively in New York after the attacks of September 11, 2001, after Congress repealed the program, but before the repeal took effect. Section 202 restores the former Stafford Act provision on MRA, with a few modifications. FEMA is authorized to provide financial assistance, not to exceed 18 months or the limitation in subsection 408(h) of the Stafford Act,<sup>4</sup> in the form of mortgage or rental payments to or on behalf of individuals and families who, as a result of financial hardship caused by a major disaster, are at “imminent risk” of dispossession or eviction. This provision corrects one of the major weaknesses of the prior provision, which required a written notice of dispossession or eviction. Consistent with all housing assistance under section 408 of the Stafford Act, this assistance is limited to primary residences.

The Committee expects that FEMA will define imminent risk through rulemaking and recommends that FEMA define this term as a certain number of days before the statutory period for eviction or foreclosure, which is determined under State law and varies from State to State. This provision provides FEMA with flexibility in how and when to provide this assistance. The Committee expects that FEMA will exercise this discretion to ensure that this provision is implemented prudently with appropriate accountability, especially in determining when a financial hardship is caused by a major disaster. Although this provision specifically refers to major disasters, under section 502(a)(6) of the Stafford Act, MRA, like all assistance under Section 408, is available following an emergency declaration as well.

*Sec. 203. Clarification of grant authority*

Section 203 makes technical amendments to section 418 of the Stafford Act (Emergency Communications) and section 419 of the Stafford Act (Emergency Public Transportation), clarifying that assistance authorized by these sections can be provided by grants to States rather than solely being provided directly by the Federal Government. This provision also amends section 309 of the Stafford Act to clarify that FEMA can enter into grant agreements to carry out this section. The Committee notes that the agreements authorized by this section include agreements entered into prior to a major disaster or emergency for use in response to a major disaster or emergency. The agreements entered into prior to a disaster could be similar to the agreements authorized for Urban Search and Rescue Teams authorized by section 328(m) of the Stafford Act, as amended by this bill, or the pre-scripted mission assignments that FEMA promulgates with other Federal agencies prior to major disasters and emergencies.

<sup>4</sup>Under Section 408(h), no individual or household may receive assistance above a maximum limit which is adjusted each year. For disasters in fiscal year 2010 that limit is \$29,900. See 74 FR 51303, October 6, 2009.

*Sec. 204. Case management services*

Subsection (a) of Section 204 makes technical amendments to section 426 of the Stafford Act which authorizes case management services. The term “qualified private organizations” is replaced with “qualified relief or disaster assistance organizations”. This change makes section 426 consistent with section 309 of the Stafford Act and other FEMA programs, by conforming the description of voluntary agencies that assist in disasters. Section 426, as amended, only applies to “qualified relief or disaster assistance organizations”. The use of the term qualified is meant to be limiting and apply only to those relief or disaster assistance organizations that have expertise in case management. In addition, by making this section consistent with section 309, the language reinforces that FEMA may use the authority provided in section 309 to enter into grant agreements with these organizations to carry out this section.

Subsection (b) requires the Administrator of FEMA, within one year of the date of enactment, to implement a plan to ensure that FEMA is the lead agency in coordinating and managing the case management services authorized by section 426 of the Stafford Act. Within 30 days of the date of enactment, the Administrator of FEMA must report to Congress on the actions that the Administrator is taking to ensure that FEMA is the lead agency for case management services and to involve qualified relief or disaster assistance organizations.

*Sec. 205. Household pets and service animals*

Subsection (a) of Section 205 amends section 502 of the Stafford Act, to add rescue, care, and sheltering of household pets and service animals to the activities eligible under emergency assistance programs in Title V of Stafford Act. The Post-Katrina Emergency Management Reform Act of 2006 amended section 403 of the Stafford Act to make such activities eligible for assistance in a major disaster declaration under Title IV of the Stafford Act, but did not provide this authority for emergency declarations under Title V of the Stafford Act. This provision extends that authority to emergency declarations.

Subsection (b) makes technical corrections to section 403(a) of the Stafford Act.

*Sec. 206. Storage, sale, transfer, and disposal of housing units*

Section 206 requires FEMA to address its inventory of temporary housing units.

Subsection (a) defines the terms “Administrator”, “emergency”, “major disaster”, “FEMA”, “hazard”, “suitable condition”, and “Stafford Act”.

Subsection (b) requires FEMA, within three months of the date of enactment, to assess the number of housing units necessary to meet requirements for major disasters and emergencies under the Stafford Act, and to establish criteria for determining whether the units stored by FEMA are in suitable condition.

Subsection (c) requires FEMA to establish a plan for storing the necessary units and selling, storing, or otherwise disposing of those units that are not necessary to maintain in stock. Trailers that are found to have formaldehyde must be disposed of in a manner to en-

sure they are not to be used for housing. The plan must be established within six months of the date of enactment and, within nine months of the date of enactment, the Administrator must begin to implement the plan. The disposal of units not necessary to maintain in stock must occur within two years of the date of enactment. Not later than six months after the date of enactment, and every three months thereafter, the Administrator shall submit a report on implementation of the plan to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate until the disposal of the units is complete.

Subsection (d) allows for the transfer of excess temporary housing units to States, subject to certain conditions, for use in major disasters or emergencies under the Stafford Act or for other incidents caused by a hazard that the Governor determines requires State assistance. However, in the event of a major disaster or emergency in that State, the State must make the units available to the President for use in that major disaster or emergency or provide the units directly to survivors of that major disaster or emergency. The Administrator shall establish a process to review requests made by States for temporary housing units under this section and to distribute excess temporary housing units that are in FEMA's inventory and in suitable condition. If the number of temporary housing units requested by States exceeds the number available, the Administrator shall determine how to allocate available units among the States that have made a request.

*Sec. 207. Other methods of disposal*

Section 207 amends section 408 of the Stafford Act to allow the Administrator to sell excess temporary housing units that are no longer needed by FEMA to a State, governmental entity, or voluntary organization to provide temporary housing to disaster victims in disasters and incidents caused by a hazard (as defined in section 602 of the Stafford Act) that do not result in a declaration of a major disaster or emergency, provided that such recipients meet existing conditions under current law.

*Sec. 208. Establishment of criteria relating to administration of hazard mitigation assistance by States*

Section 208 requires the President, within 180 days of the date of enactment, to implement a program authorized in section 204 of the Disaster Mitigation Act of 2000. To date, FEMA has not implemented this program to allow States to manage the Hazard Mitigation Grant Program under section 404 of the Stafford Act.

*Sec. 209. Use of financial assistance to disseminate information regarding cost-effective mitigation technologies*

Section 209 amends section 203 of the Stafford Act to increase the amount of Pre-Disaster Mitigation program funds that a State may use to disseminate information about cost-effective mitigation technologies from 10 percent to up to 15 percent, with the approval of the President.

## TITLE III—OTHER MATTERS

*Sec. 301. Emergency Management Assistance Compact grants*

Subsection (a) of Section 301 adds a new section 617 to the Stafford Act to reauthorize Emergency Management Assistance Compact (EMAC or Compact) grants. EMAC provides form and structure to interstate mutual aid and allows a State that is impacted by a disaster to request and receive assistance from other States quickly and efficiently. States and the Administrator of the Emergency Management Assistance Compact are eligible to receive grants under this section. The grants may be used to carry out recommendations identified in the EMAC after-action reports for the 2004 and 2005 hurricane seasons; administer the Compact; coordinate with FEMA and other appropriate Federal agencies; continue coordination with State and local governments and their respective national organizations; or assist with credentialing providers and typing emergency response resources. In providing assistance under the Compact, the Administrator of FEMA shall consult with the Administrator of the Compact to ensure effective coordination of efforts in responding to requests for assistance. This section authorizes \$4,000,000 to be appropriated to carry out this section for each of fiscal years 2010, 2011, and 2012. The current authorization for EMAC grants expired on September 30, 2008.

Subsection (b) repeals 6 U.S.C. 761 which is the previous authorization that expired on September 30, 2008.

*Sec. 302. Authority to accept and use gifts*

Section 302 makes a technical amendment to section 701(b) of the Stafford Act that clarifies that FEMA may make grants with funds or other gifts and donations made under section 701.

*Sec. 303. Individual assistance factors*

Section 303 requires FEMA, not later than one year after the date of enactment, to review, update, and revise, through rule-making, the factors considered in making recommendations for the assistance provided to individuals and families under the Stafford Act (as provided in 44 CFR 206.48). In developing these factors, the Committee recommends that FEMA not discriminate against States that have existing individual assistance programs and encourage other States to create such programs.

*Sec. 304. Technical corrections to references*

Section 304 makes technical corrections by changing references to the “Director” of FEMA to “Administrator” of FEMA, consistent with the change in title of the head of FEMA that took effect on April 1, 2007.

*Sec. 305. Functions of Federal Coordinating Officer*

Section 305 amends section 302 of the Stafford Act to clarify the responsibilities of the Federal Coordinating Officer (FCO) appointed after a major disaster or emergency in recovery, including long-term recovery. This section requires the FCO to make an initial appraisal of the types of recovery assistance needed not later than one month after the date of declaration of a major disaster or emergency. As appropriate, the FCO shall incorporate the rec-

ommendations of the Federal interagency disaster recovery task force created by section 306 of this Act. In addition, the FCO is required to coordinate with State government officials on the establishment and implementation of detailed short and long-term recovery plans.

The Committee notes that the FCO has authority for short and long-term recovery provided in various provisions of the Stafford Act, including section 402. FEMA, through its regulations, has also created a role for a “Disaster Recovery Manager” in 44 CFR 206.41(b). Although FEMA makes an administrative distinction for the purposes of its programs, the Disaster Recovery Manager carries out the duties of the FCO in recovery and is almost always the same person as the FCO.

*Sec. 306. Federal interagency disaster recovery task force*

Section 306 adds a new section 330 to the Stafford Act to establish a Federal interagency disaster recovery task force. This task force will enhance and expedite recovery efforts of the Federal Government with respect to a major disaster or emergency.

Section 330(a) establishes the task force and requires the task force to identify, maintain and catalogue Federal programs that may be used to assist in recovery efforts and to report to Congress at least annually.

Section 330(b) establishes the Administrator of FEMA as the chairperson of the task force.

Section 330(c) requires that the task force include a representative of each Federal department and agency determined by the President to administer a program that may be used to assist in recovery efforts. The Committee notes the critical role that the Economic Development Administration (EDA) has played in recovery from disasters and EDA’s specific statutory authority for post-disaster recovery, and expects that EDA will play a significant role in the task force.

Section 330(d) provides that the task force shall meet at least once each year.

*Sec. 307. Debris removal*

Section 307 authorizes the President to increase the cost share by five percent for debris removal under section 407 of the Stafford Act for States and local governments that have a debris management plan approved by the Administrator of FEMA prior to the disaster declaration. This section codifies a pilot project authorized by the Committee in the Post-Katrina Emergency Management Reform Act of 2006.

*Sec. 308. Review of regulations and policies*

Subsection (a) of section 308 requires the President, within one year of the date of enactment, to review regulations and policies related to Federal disaster assistance to eliminate regulations that the President determines are no longer relevant, to harmonize contradictory regulations, and to simplify and expedite disaster recovery and assistance. The Committee understands that FEMA has begun such a process and expects that this review will occur within the timeframe outlined in this section and with appropriate input from State and local emergency managers and other stakeholders.

Subsection (b) provides that, not later than 18 months after the date of enactment, the President shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report describing changes made to regulations as a result of subsection (a) and any related legislative recommendations.

*Sec. 309. Appeals process*

Section 309 amends section 423(b) of the Stafford Act to change the deadline by which FEMA must issue decisions on appeals on disaster assistance from 90 days to 60 days of receiving notice of the appeal. This section also adds a new provision that requires FEMA to provide a written explanation of the failure to meet the new deadline to the applicant, and provide quarterly reports to Congress. The Committee continues to be concerned about FEMA's inability to meet the statutory deadlines for decisions on appeals, especially in the Public Assistance program. A recent report on the Public Assistance program by the Inspector General of the Department of Homeland Security, requested by the Committee, confirms these concerns. The Inspector General found that, on average, it took FEMA seven months to complete first appeals and an additional 10 months to complete second appeals; in some cases the appeal process took several years.<sup>5</sup>

*Sec. 310. Repair restoration and replacement of damaged facilities*

Subsection (a) of Section 310 amends section 406 of the Stafford Act to lower the threshold for Public Assistance projects on which the President must report to Congress from \$20 million to \$5 million. The subsection also adds a new provision to require a report, not less frequently than every 180 days, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate on the status of applications, obligations, and contributions for each active major disaster on the date of the transmission of the report.

Subsection (b) requires the President, within 180 days of the date of enactment, to issue regulations and implement the cost estimating procedures for the Public Assistance program. Section 406(e) of the Stafford Act was amended to require these procedures in the Disaster Mitigation Act of 2000. FEMA has not implemented the Disaster Mitigation Act requirement. A number of hearings held by the Subcommittee on Economic Development, Public Buildings, and Emergency Management have highlighted delays in implementing the Public Assistance program and conflicts between FEMA and State and local governments on eligibility for this program. These delays and conflicts have impeded the recovery from a number of disasters, including Hurricane Katrina. The Committee believes that, if FEMA had implemented the cost estimating requirements of the Disaster Mitigation Act of 2000, many of these delays and conflicts could have been avoided. The Committee also notes that implementation of this provision is a critical element in

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<sup>5</sup> Department of Homeland Security Office of Inspector General, Assessment of FEMA's Public Assistance Program Policies and Procedures, Report OIG-10-26 (December 2009), at 4-6.

developing and implementing the special procedures for widespread damages authorized by section 311 of this Act.

*Sec. 311. Special procedures for widespread damage*

Subsection (a) of section 311 amends the Stafford Act by adding a new subsection 406(f). This provision authorizes the President to make a determination, at the request of a Governor, that a major disaster has caused extensive and widespread damages; and that special procedures to expedite the repair, restoration, reconstruction, or replacement of eligible public facilities are in the public interest. The President may apply any limitations or other conditions in making available this assistance that the President establishes by regulation.

To be eligible for assistance under special procedures, a State must submit a facility recovery plan to the President. To provide assistance under special procedures, the President must determine that the plan is consistent with the requirements of this section. Within 10 days after the President makes the determination to use special procedures, the President must provide the State assistance in developing the facility recovery plan, unless the State requests assistance in developing the plan be provided at a later date. This assistance to develop the plan may be provided through financial assistance, technical assistance, or through the Emergency Management Assistance Compact described in section 617 of the Stafford Act, as amended by section 301 of this Act. When providing assistance under special procedures, the President may provide up to 100 percent for large in-lieu contributions, also known as alternate projects.

Subsection (b) requires the Administrator of FEMA to issue an interim final rule to implement this program within 180 days of the date of enactment, and a final rule not later than two years after the date of the interim final rule. In issuing the final rule, the Administrator shall consider public comments, including the comments of State and local emergency management agencies, and the report of the Inspector General under subsection (c).

In developing the special procedures through rulemaking, the Administrator shall consider, at a minimum, the authorities and procedures used to carry out section 406(c) of the Stafford Act, which authorizes large in-lieu projects, section 422, which authorizes simplified procedures for small projects, and section 406(e), which authorizes cost-estimating procedures, including mitigation authorized by section 406(e)(1). The Committee notes that with the exception of the adjustment for contributions for large in-lieu projects, also known as alternate projects, the Stafford Act already provides the President with the discretion and flexibility to establish the special procedures authorized by this section. However, this section requires FEMA to do so, and establishes clear criteria for when special procedures may be used.

Subsection (c) requires the Inspector General of the Department of Homeland Security to issue a report 90 days after the implementation of this provision and authorizes additional reports as appropriate.

## ADDITIONAL MATTERS

FEMA has begun a multi-year effort to harmonize administrative requirements for all of FEMA's hazard mitigation programs, including the all-hazards PDM and HMGP programs authorized by the Stafford Act, and flood mitigation programs (e.g., Flood Mitigation Assistance, Repetitive Flood Loss, and Severe Repetitive Loss). FEMA's goal is to unify the administrative requirements of hazard mitigation assistance programs by using common systems and tools, and by simplifying and streamlining the application and eligibility determination process. FEMA expects that these changes will improve program implementation, management, and close-out. The focus is on simplifying the process for both FEMA and the communities that it serves. The Committee strongly supports these efforts.

The Committee notes that "safe rooms" can be effective in protecting lives in a disaster and notes that safe rooms and related projects that help ensure facilities protect lives during a disaster are an appropriate use of Stafford Act mitigation funds, subject to all other appropriate statutory and program requirements.

The Committee recognizes that some communities have less capability than others to develop competitive hazard mitigation applications, and that some States are less able than others to build and maintain the capacity to provide needed technical assistance. The Committee encourages FEMA to continue to make available technical assistance, and allow States the greatest flexibility permitted to provide technical assistance to communities that require such assistance and capacity building to identify and develop applications in accordance with the specifications of the nationally competitive program.

In 2006, FEMA instituted a Mitigation Reconstruction pilot program for communities impacted by Hurricanes Katrina and Rita; however, FEMA has not considered these projects in other disasters. Mitigation Reconstruction, also known as Demolish-Rebuild, provides for damaged structures to be reconstructed in a way that will mitigate against losses in future disasters. In certain cases, the cost-benefit of demolishing and reconstructing justifies the use of mitigation funds in this way. For example, simply elevating an old structure to guard against flood damage does little to protect against wind damage. In addition, there is no statutory prohibition against the use of mitigation funding for mitigation reconstruction. The Committee encourages and supports FEMA in making appropriate mitigation reconstruction projects allowable under its mitigation programs.

The Committee held a number of hearings detailing the impact of FEMA's policies on recovery efforts following a large and widespread disaster, such as Hurricane Katrina. Often, the processes established through regulations and policies for assistance under FEMA's programs were found to be cumbersome, especially following a large-scale disaster. In addition, FEMA has failed to fully implement certain authorities provided under the Stafford Act, such as those authorities that provide for the use of cost-estimating, which can help expedite the recovery process. Therefore, H.R. 3377, as amended, includes a number of provisions that are intended to help streamline and improve assistance and coordina-

tion following such a disaster, including directing the President to review disaster assistance regulations and policies, shortening the Public Assistance appeals process, creating a Federal Interagency Recovery Task Force, and establishing special procedures for widespread disasters.

The Committee notes that the Administration is engaged in a number of efforts to review the Federal Government's role and activities in disaster recovery including long-term recovery. EDA has traditionally assisted communities' disaster recovery and has specific authority to support post-disaster economic recovery. The Committee expects that EDA will play a significant role in any Federal long-term disaster recovery efforts.

#### LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

The Committee held the following hearings related to matters contained in H.R. 3377 in the 110th and 111th Congresses:

On March 27, 2007, the Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing on FEMA's Temporary Housing Program.

On April 20, 2007, the Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing on FEMA's Emergency Food Supply System.

On April 26, 2007, the Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing on FEMA's Preparedness and Response to All Hazards.

On April 30, 2008, the Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing on FEMA's Pre-Disaster Mitigation program.

On June 4, 2008, the Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing on FEMA's Integrated Public Alerts and Warning System.

On September 23, 2008, the Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing on FEMA's response to the 2008 hurricane season and the National Disaster Housing Strategy.

On February 25, 2009, the Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing on FEMA's continuing efforts on Gulf Coast recovery and its response to recent disasters.

On May 14, 2009, the Committee on Transportation and Infrastructure held a hearing on an Independent FEMA.

On July 27, 2009, the Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing on catastrophic disasters.

On September 29, 2009, the Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing on ongoing recovery efforts from Hurricane Katrina in the Gulf Coast.

On September 30, 2009, the Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing on FEMA's Integrated Public Alerts and Warning System.

On October 20, 2009 the Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing on the reports of the National Council on Disabilities and the

National Commission on Children and Disaster on disasters and emergency management.

On February 3, 2010, the Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing on FEMA's National Urban Search and Rescue System and their activities in response to the Haitian earthquake.

On March 4, 2010, the Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing on the United States Conference of Mayors report on the Stafford Act and on disaster issues related to cities.

On March 23, 2010, the Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing on the response to winter storms and disaster declarations for winter storms in the National Capital Region.

On May 11, 2010, the Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing on the proposed Fiscal Year 2011 budgets for FEMA and the Economic Development Administration.

In the 110th and 111th Congresses, the Committee took action on the following legislation:

On May 21, 2008, Chairman James L. Oberstar introduced H.R. 6109, the "Pre-Disaster Mitigation Act of 2008". On May 22, 2008, the Committee on Transportation and Infrastructure met in open session to consider H.R. 6109. The Committee ordered the bill reported favorably to the House by voice vote with a quorum present. On June 19, 2008, the Committee on Transportation and Infrastructure reported the bill. H. Rept. 110-725.

On July 30, 2008, Chairman James L. Oberstar introduced H.R. 6658, the "Disaster Response, Recovery, and Mitigation Enhancement Act of 2008". On July 31, 2008, the Committee on Transportation and Infrastructure met in open session to consider H.R. 6658. The Committee ordered the bill reported favorably to the House by voice vote with a quorum present.

On March 26, 2009, Chairman James L. Oberstar introduced H.R. 1746, the "Pre-Disaster Mitigation Act of 2009". On April 2, 2009, the Committee on Transportation and Infrastructure met in open session to consider H.R. 1746. The Committee ordered the bill reported favorably to the House by voice vote with a quorum present. On April 23, 2009, the Committee on Transportation and Infrastructure reported the bill. H. Rept. 111-83.

On July 29, 2009, Chairman James L. Oberstar introduced H.R. 3377, the "Disaster Response, Recovery, and Mitigation Enhancement Act of 2009". On November 5, 2009, the Committee on Transportation and Infrastructure met in open session to consider H.R. 3377. The Committee adopted by voice vote an amendment in the nature of a substitute. The Committee ordered the bill, as amended, reported favorably to the House by voice vote with a quorum present.

#### RECORD VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no re-

corded votes taken in connection with consideration of H.R. 3377 or ordering the bill reported. A motion to order H.R. 3377, as amended, reported favorably to the House was agreed to by voice vote with a quorum present.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

COST OF LEGISLATION

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included in the report.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objectives of this legislation are to improve the assistance that the Federal Government provides to States, local governments, and communities before, during, and after major disasters and emergencies.

3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the enclosed cost estimate for H.R. 3377, as amended, from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, March 8, 2010.*

Hon. JAMES L. OBERSTAR,  
*Chairman, Committee on Transportation and Infrastructure,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3377, the Disaster Response, Recovery, and Mitigation Enhancement Act of 2009.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Daniel Hoople.

Sincerely,

DOUGLAS W. ELMENDORF,  
*Director.*

Enclosure.

*H.R. 3377—Disaster Response, Recovery, and Mitigation Enhancement Act of 2009*

Summary: H.R. 3377 would affect several grant and disaster assistance programs administered by the Federal Emergency Management Agency (FEMA). The legislation would:

- Authorize grants to states and localities for predisaster mitigation programs;
- Modernize emergency warning systems to incorporate multiple technologies;
- Expand participation in the Federal Employees Health Benefit (FEHB) program to include temporary or intermittent employees hired by FEMA during a disaster;
- Provide funding for urban response and rescue efforts and establish a national network of standardized resources for search and rescue;
- Increase hazard mitigation assistance available to states following a disaster;
- Authorize mortgage and rental payment assistance for victims of a disaster;
- Authorize grants to states that agree to provide aid to other states during a disaster;
- Increase assistance for debris removal to states and local governments;
- Require FEMA to undertake a number of reviews and reports;
- Specifically authorize a Disaster Relief Fund (DRF);
- Authorize assistance for the rescue, care, and shelter of household pets and service animals during a declared emergency;
- Direct FEMA to develop and implement a plan to dispose of excess housing units; and,
- Create special procedures for recovery funding for disasters with extensive and widespread damages and increase assistance for alternative public assistance projects.

Assuming appropriation of the necessary funds, CBO estimates that implementing H.R. 3377 would cost about \$1.2 billion over the 2010–2015 period.

In addition, the legislation would authorize FEMA to retain and spend receipts from the sales of excess materials, supplies, and equipment. Under current law, proceeds in excess of sale costs are deposited into the Treasury. Pay-as-you-go procedures would apply because enacting the legislation would affect direct spending; however, CBO estimates that such spending would be insignificant in any year. We estimate that enacting this legislation would not affect revenues.

H.R. 3377 would impose intergovernmental and private-sector mandates, as defined in the Unfunded Mandates Reform Act (UMRA), by eliminating an existing right to seek compensation for damages and by requiring employers to allow members of the urban search and rescue response system to reclaim their jobs after completing a deployment to a disaster. Based on information from FEMA, CBO estimates that the cost to comply with the mandates would fall below the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$70 million and \$141 million, respectively, in 2010, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 3377 is shown in the following table. The cost of this legislation falls within budget functions 450 (community and regional development) and 550 (health).

	By fiscal year, in millions of dollars—						
	2010	2011	2012	2013	2014	2015	2010–2015
CHANGES IN SPENDING SUBJECT TO APPROPRIATION							
Predisaster Mitigation Grants:							
Authorization Level <sup>1</sup> .....	150	250	250	0	0	0	650
Estimated Outlays .....	4	81	160	205	150	50	650
Integrated Public Alert and Warning System:							
Estimated Authorization Level .....	0	39	39	40	41	43	202
Estimated Outlays .....	0	6	14	25	34	40	119
Health Benefits for Temporary Employees:							
Estimated Authorization Level .....	4	16	17	18	19	21	95
Estimated Outlays .....	4	16	17	18	19	21	95
National Urban Search and Rescue Response System:							
Authorization Level <sup>1</sup> .....	19	52	52	0	0	0	123
Estimated Outlay .....	2	46	52	23	0	0	123
Increased Hazard Mitigation Assistance:							
Estimated Authorization Level .....	0	28	56	56	57	58	255
Estimated Outlays .....	0	1	8	22	36	47	114
Temporary Mortgage and Rental Payments:							
Estimated Authorization Level .....	0	2	3	3	3	3	14
Estimated Outlays .....	0	1	3	3	3	3	13
Emergency Management Assistance Compact Grants:							
Authorization Level .....	4	4	4	0	0	0	12
Estimated Outlays .....	1	4	4	3	0	0	12
Increased Debris Removal Assistance:							
Estimated Authorization Level .....	0	12	18	18	18	19	85
Estimated Outlays .....	0	11	17	18	18	19	83
Reviews and Reports:							
Estimated Authorization Level .....	*	1	1	1	1	1	5
Estimated Outlays .....	*	1	1	1	1	1	5
Total Changes:							
Estimated Authorization Level .....	177	404	440	136	139	145	1,441
Estimated Outlays .....	11	167	276	318	261	181	1,214

Note: \* less than \$500,000.

<sup>1</sup>H.R. 3377 would authorize appropriations for fiscal year 2010 above amounts provided by the Congress under current law and allocated by FEMA for that year (see Public Law 111–83).

**Basis of estimate:** For this estimate, CBO assumes that the legislation will be enacted during fiscal year 2010 and that amounts specified and estimated to be necessary will be appropriated for each year.

#### *Spending subject to appropriation*

**Predisaster Mitigation Grants.** Section 101 would authorize the appropriation of \$250 million in each of fiscal years 2010 through 2012 for FEMA to provide assistance to states and localities for predisaster mitigation projects such as constructing levees, relocating homes away from flood prone areas, and retrofitting buildings in areas prone to earthquakes. For 2010, the Congress provided \$100 million for such assistance (see Public Law 111–83). CBO assumes that the additional \$150 million authorized by this legislation for that year would also be appropriated. Based on historical spending patterns for this program, CBO estimates that im-

plementing this provision would cost \$650 million over the 2010–2015 period.

**Integrated Public Alert and Warning System.** Section 102 would authorize the appropriation of \$37 million for 2010 and such sums as may be necessary thereafter to modernize the Integrated Public Alert and Warning System (IPAWS). IPAWS utilizes multiple technologies (for example, satellite radios, computers, pagers, and cellular phones) in addition to traditional radio and television communications to provide information about an impending or ongoing disaster. To date, FEMA has completed several pilot programs and continues to implement IPAWS technologies in various regions. In addition, the legislation would establish an advisory committee to make recommendations on implementing the system.

FEMA plans to allocate about \$37 million for IPAWS in 2010 from amounts already provided for that year. Based on information from the agency, CBO does not expect that activities would increase significantly over the next five years under this bill. Consequently, we estimate that the amounts necessary to implement this section would be roughly equivalent to the current budget for the program (adjusted for inflation) and would cost about \$119 million over the 2011–2015 period.

**Health Benefits for Temporary Employees.** Section 103 would allow temporary or intermittent employees hired by FEMA under the Stafford Act to enroll in the Federal Employees Health Benefit (FEHB) program. Based on estimates from FEMA of the number of disaster assistance employees that would be eligible each year (about 8,000), CBO estimates that the federal contribution towards premiums for temporary and intermittent employees would total about \$95 million over the 2010–2015 period. CBO estimates that about half of the eligible employees working for less than one year would enroll in the program.

**National Urban Search and Rescue Response System.** Section 105 would authorize the appropriation of \$52 million in each of fiscal years 2010 through 2012 for FEMA to supplement operations of the National Urban Search and Rescue Response System. The system consists of multiple task forces made up of participants from fire departments, law enforcement agencies, federal, state, and local governments, and private companies. Task forces assist local responders in locating victims and managing recovery operations. Funding provided in this legislation would be used to operate and train the task forces, maintain equipment, and replace or repair equipment used in training or when responding to a disaster. The bill also would direct FEMA to establish a national network of standardized resources used in search and rescue operations and to enter into cooperative agreements with sponsoring agencies to reimburse costs incurred in those efforts.

For 2010, the Congress provided about \$33 million for the Urban Search and Rescue Response System (see Public Law 111–83). CBO assumes that the additional \$19 million authorized by this bill for 2010 also would be provided. Based on historical spending patterns for this program, CBO estimates that implementing this provision would cost \$123 million over the 2010–2015 period.

**Increased Hazard Mitigation Assistance.** Section 201 would increase assistance available to states under FEMA's Hazard Mitigation Grant Program (HMGP). Under current law, states receive

grants for postdisaster mitigation equal to between 7.5 percent and 15 percent of total recovery assistance provided under the Stafford Act. States with a FEMA-approved State or Tribal Enhanced Hazard Mitigation Plan may receive grants of up to 20 percent of Stafford Act assistance. Under this legislation, if a state is actively enforcing an approved building code, FEMA could increase mitigation assistance through HMGP by an amount equal to 4 percent of total recovery assistance. Based on historical obligations for hazard mitigation and assuming that about half of future disasters occur in states with approved building codes, CBO estimates that implementing this provision would require additional appropriations of about \$255 million over the 2011–2015 period, at a cost of \$114 million.

**Temporary Mortgage and Rental Payments.** Section 202 would authorize FEMA to make mortgage and rental payments on behalf of individuals facing imminent risk of eviction as a result of a disaster. Assistance under the program would be limited to 18 months and would be subject to FEMA's cap on total individual and household assistance (\$29,900 for 2010, adjusted annually for inflation). Prior to 2002, FEMA operated a Mortgage and Rental Assistance (MRA) program with similar parameters. Payments under MRA totaled about \$18 million from 1970 until 2001, when FEMA distributed \$76 million in assistance following the September 11 terrorist attacks. CBO estimates that implementing a similar program would require additional resources of about \$14 million over the next five years, increasing discretionary spending by \$13 million over that period.

**Emergency Management Assistance Compact Grants.** Section 301 would authorize the appropriation of \$4 million a year over the 2010–2012 period for grants to administer and coordinate activities under the Emergency Management Assistance Compact (EMAC). EMAC was ratified by the Congress in 1996 (see Public Law 104–321) as an interstate mutual-aid agreement that enables member states to share resources during a declared disaster. The compact also allows for interstate coordination of emergency-related exercises and training. EMAC is currently administered by the National Emergency Management Association (NEMA), a private association representing state emergency management directors. Based on historical expenditure patterns, CBO estimates that providing grants to NEMA and EMAC participants would cost \$12 million over the 2010–2013 period.

**Increased Debris Removal Assistance.** Section 308 would increase the federal cost share for debris removal by 5 percent for states and local governments that have developed a debris management plan and have prequalified at least two wreckage-removal contractors prior to a disaster. Under current FEMA covers 75 percent of the cost for debris removal after a disaster. (In certain cases, the federal share has been temporarily increased up to 100 percent.)

Like other disaster relief, spending for debris removal varies depending on the quantity and magnitude of disasters in a given year. Over the 2000–2004 period, annual allocations for debris removal averaged about \$350 million compared with almost \$1.2 billion over the last five years. Based on those historical expenditures, CBO estimates that implementing this provision would require ad-

ditional resources of about \$85 million over the next five years, at a cost of \$83 million over that time.

**Reviews and Reports.** The legislation would direct FEMA to review the factors used to measure the severity, magnitude, cost, and impact of a disaster; the criteria for a state to administer its HMGP funds; and whether certain recommendations regarding individuals with disabilities should be incorporated into policies for disaster response and recovery. CBO cannot predict whether any actions undertaken as a result of those reviews would affect the costs of disaster relief.

The legislation also would require FEMA to submit reports to the Congress regarding improvements to IPAWS (from the newly created IPAWS Modernization Advisory Committee); activities of the DRF; the storage, use, and disposal of temporary housing units; the status of public assistance grants for each major disaster; and the implementation of special procedures for disasters with widespread damage. Based on the historical costs of similar types of studies produced by FEMA and other agencies, CBO estimates that this work would cost about \$5 million over the next five years.

**Other Provisions.** H.R. 3377 would make a number of other changes to the Stafford Act, which CBO estimates would have no significant impact on the federal budget.

**Disaster Relief Fund (DRF).** Section 106 would authorize the appropriation of whatever amounts are necessary to provide disaster-related assistance under the Stafford Act. Although current law does not explicitly authorize appropriations for those purposes, the Congress regularly provides funds to the DRF through annual and supplemental appropriations. Since 2000, more than \$85 billion has been expended for disaster assistance, including more than \$37 billion for the 2005 Gulf Coast hurricanes. Because this provision would not alter the authorized activities of the federal government in response to a disaster, CBO estimates that it would have no additional cost.

**Assistance for Household Pets and Service Animals.** Section 205 would authorize FEMA to provide assistance for the rescue, care, and shelter of household pets and service animals during a declared emergency. Under current law, such assistance is available within presidentially declared disaster areas at the discretion of FEMA. Emergency assistance (unlike major disaster assistance) may be triggered without a gubernatorial request and does not require that certain criteria (for example, level of damages) be met before federal aid becomes available. Based on information from FEMA, CBO does not expect that a significant increase in resources would be necessary to implement this provision.

**Disposal of Temporary Housing Units.** Section 206 would direct FEMA to develop and implement a plan to dispose of temporary housing units (for example, mobile homes and travel trailers) that are in excess of current and future needs or are determined to be unusable. Excess units determined to be in a suitable condition could immediately be donated to states for disaster relief purposes, instead of first being offered for sale to current occupants under current law. CBO cannot determine how many units would be donated rather than sold under this provision; however, because the proceeds of any sale are deposited in the DRF or remain with General Services Administration (GSA disposes of excess property for

FEMA and many other agencies) under current law, any change in receipts would have no net effect on the federal budget.

**Additional Assistance for Certain Disasters.** Section 312 would direct FEMA to establish special procedures for areas where a major disaster has caused extensive and widespread damage. Those procedures would allow FEMA to provide technical and financial assistance to develop recovery spending plans and increased federal funding for certain public assistance projects. Under current law, state and local governments may elect to construct new facilities, engage in hazard mitigation, or repair and expand other facilities in lieu of repairing an existing structure damaged by a disaster. In such cases, federal funding is decreased by 10 percent for public buildings and by 25 percent for private non-profit facilities. Using the special procedures developed under this section, FEMA could provide the full federal share for the cost of those projects (which is typically 75 percent, but for large disasters may increase to 90 percent).

CBO assumes that the special procedures would apply only in cases where damages are exceedingly high or widespread (such as Hurricane Katrina in 2005 or Hurricane Ike in 2008). CBO cannot predict the timing of these events or whether any other additional assistance may be provided as a result of this provision. Few alternative projects were undertaken following major disasters over the last few years, suggesting that additional expenditures under the bill would be small in most years.

#### *Direct spending*

Section 104 would authorize FEMA to sell excess disaster-related materials, supplies, and equipment directly to states, local governments, and disaster relief organizations for the purpose of assisting victims of other disasters or emergencies. Proceeds received from the sale of such excess property would be available to FEMA to provide future disaster assistance. Under current law, such receipts are deposited in the Treasury as miscellaneous receipts. Any decrease in receipts to the Treasury as a result of this provision would be considered direct spending.

Based on information from GSA, CBO estimates that any additional spending under this provision would be insignificant. Under current law, excess property is first available for transfer to other federal agencies. Material not transferred may be donated to state and nonprofit organizations. Property not disposed of through those means may then be offered to the public for sale. The sale of FEMA's materials and supplies generally does not result in a significant sum deposited in the Treasury. Usually, FEMA or GSA will retain any receipts to cover the costs of a sale (for example, warehousing and handling). Therefore, CBO estimates that allowing FEMA to retain proceeds from the sale of excess disaster-related materials, supplies, and equipment would have no significant net effect on the federal budget.

**Pay-as-you-go considerations:** Because provisions of the bill could affect direct spending, pay-as-you-go procedures would apply. However, CBO estimates that any increase in direct spending under the bill would be insignificant in each year.

**Intergovernmental and private-sector impact:** H.R. 3377 would impose intergovernmental and private-sector mandates as defined

in UMRA. CBO estimates that the cost to comply with the mandates to state, local, and tribal governments and the private sector would fall below the annual thresholds established in UMRA for such mandates (\$70 million and \$141 million, respectively, in 2010, adjusted annually for inflation).

Under current law, members of search and rescue task forces have protection from tort liability when participating in federal preparedness activities. The bill would expand that protection to include training exercises. Such protection would impose a mandate because it would eliminate an existing right to seek compensation for damages. According to FEMA, no claims for damage have been filed regarding a training exercise, nor does the agency expect that any such claims would be filed under current law. Therefore, CBO estimates that the costs, if any, of this mandate would be minimal.

The bill also would require employers to allow task force members who are deployed to a disaster to reclaim their jobs upon completion of their service. According to FEMA, there are currently about 2,000 workers in the system; the duration of deployment is usually less than one month; and in general, most employers currently allow workers to reclaim their positions: Thus, CBO estimates that the cost for government and private-sector employers to comply with the mandate would fall below the annual thresholds.

The bill also would benefit state, local, and tribal governments by authorizing appropriations for hazard mitigation activities; authorizing the sale of excess materials, supplies, and equipment to those governments for use in emergencies; and authorizing the reimbursement of compensation for certain public employees who are activated as part of an urban search and rescue team. Any costs to those governments would be incurred voluntarily.

Estimate prepared by: Federal Costs: Daniel Hoople—FEMA; Kirstin Nelson—FEHB; Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

#### COMPLIANCE WITH HOUSE RULE XXI

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee is required to include a list of congressional earmarks, limited tax benefits, or limited tariff benefits, as defined in clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives. H.R. 3377, as amended, does not contain any earmarks, limited tax benefits, or limited tariff benefits under clause 9(e), 9(f), or 9(g) of rule XXI.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause (3)(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursu-

ant to its powers granted under article I, section 8 of the Constitution.

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104–4).

#### PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt State, local, or tribal law. The Committee states that H.R. 3377, as amended, does not preempt any State, local, or tribal law.

#### ADVISORY COMMITTEE STATEMENT

H.R. 3377, as amended, establishes an advisory committee as defined by section 3 of the Federal Advisory Committee Act: the Urban Search and Rescue Advisory Committee. The Committee finds pursuant to section 5 of the Federal Advisory Committee Act that none of the functions of the proposed advisory committee are being or could be performed by one or more agencies or by an advisory committee already in existence, or by enlarging the mandate of an existing advisory committee. The Committee also determines that the Urban Search and Rescue Advisory Committee has a clearly defined purpose, fairly balanced membership, and meets all of the other requirements of section 5(b) of the Federal Advisory Committee Act.

#### APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (P.L. 104–1).

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

### **ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT**

#### **SECTION 1. SHORT TITLE.**

This Act may be cited as the “Robert T. Stafford Disaster Relief and Emergency Assistance Act”.

\* \* \* \* \*

## TITLE II—DISASTER PREPAREDNESS AND MITIGATION ASSISTANCE

\* \* \* \* \*

### SEC. 203. [PREDISASTER] *PRE-DISASTER* HAZARD MITIGATION.

(a) \* \* \*

(b) ESTABLISHMENT OF PROGRAM.—The President may establish a program to provide technical and financial assistance to States and local governments to assist in the implementation of [predisaster] *pre-disaster* hazard mitigation measures that are cost-effective and are designed to reduce injuries, loss of life, and damage and destruction of property, including damage to critical services and facilities under the jurisdiction of the States or local governments.

(c) APPROVAL BY PRESIDENT.—If the President determines that a State or local government has identified natural disaster hazards in areas under its jurisdiction and has demonstrated the ability to form effective public-private natural disaster hazard mitigation partnerships, the President, using amounts in the National [Predisaster] *Pre-Disaster* Mitigation Fund established under subsection (i) (referred to in this section as the “Fund”), may provide technical and financial assistance to the State or local government to be used in accordance with subsection (e).

\* \* \* \* \*

(e) USES OF TECHNICAL AND FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—Technical and financial assistance provided under this section—

(A) shall be used by States and local governments principally to implement [predisaster] *pre-disaster* hazard mitigation measures that are cost-effective and are described in proposals approved by the President under this section; and

\* \* \* \* \*

(2) DISSEMINATION.—A State or local government may use not more than 10 percent (*or up to 15 percent if approved by the President*) of the financial assistance received by the State or local government under this section for a fiscal year to fund activities to disseminate information regarding cost-effective mitigation technologies.

[(f) ALLOCATION OF FUNDS.—The amount of financial assistance made available to a State (including amounts made available to local governments of the State) under this section for a fiscal year—

[(1) shall be not less than the lesser of—

[(A) \$500,000; or

[(B) the amount that is equal to 1.0 percent of the total funds appropriated to carry out this section for the fiscal year;

[(2) shall not exceed 15 percent of the total funds described in paragraph (1)(B); and

[(3) shall be subject to the criteria specified in subsection

(g).]

(f) ALLOCATION OF FUNDS.—

(1) *IN GENERAL.*—The President shall award financial assistance under this section on a competitive basis and in accordance with the criteria in subsection (g).

(2) *MINIMUM AND MAXIMUM AMOUNTS.*—In providing financial assistance under this section, the President shall ensure that the amount of financial assistance made available to a State (including amounts made available to local governments of the State) for a fiscal year—

(A) is not less than the lesser of—

(i) \$575,000; or

(ii) the amount that is equal to one percent of the total funds appropriated to carry out this section for the fiscal year; and

(B) does not exceed the amount that is equal to 15 percent of the total funds appropriated to carry out this section for the fiscal year.

(g) *CRITERIA FOR ASSISTANCE AWARDS.*—In determining whether to provide technical and financial assistance to a State or local government under this section, the President shall take into account—

(1) \* \* \*

\* \* \* \* \*

(9) the extent to which assistance will fund mitigation activities in small impoverished communities; **and**

(10) in the case of a State, whether the State has in effect and is actively enforcing a State building code in a manner consistent with section 404(d); and

**[(10)]** (11) such other criteria as the President establishes in consultation with State and local governments.

\* \* \* \* \*

(i) **NATIONAL [PREDISASTER] PRE-DISASTER MITIGATION FUND.**—

(1) **ESTABLISHMENT.**—The President may establish in the Treasury of the United States a fund to be known as the “National **[Pre**disaster] *Pre-Disaster* Mitigation Fund”, to be used in carrying out this section.

(2) **TRANSFERS TO FUND.**—There shall be deposited in the Fund—

(A) \* \* \*

(B) sums available from gifts, bequests, or donations of services or property received by the President for the purpose of **[pre**disaster] *pre-disaster* hazard mitigation.

\* \* \* \* \*

**[(m)]** **TERMINATION OF AUTHORITY.**—The authority provided by this section terminates September 30, 2009.

(m) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$250,000,000 for each of fiscal years 2010, 2011, and 2012.

**SEC. 204. INTERAGENCY TASK FORCE.**

(a) \* \* \*

(b) **CHAIRPERSON.**—The **[Director]** *Administrator* of the Federal Emergency Management Agency shall serve as the chairperson of the task force.

\* \* \* \* \*

**TITLE III—MAJOR DISASTER AND EMERGENCY ASSISTANCE ADMINISTRATION**

\* \* \* \* \*

COORDINATING OFFICERS

SEC. 302. (a) \* \* \*

(b) In order to effectuate the purposes of this Act, the Federal coordinating officer, within the affected area, shall—

(1) \* \* \*

\* \* \* \* \*

(3) coordinate the administration of relief, including activities of the State and local governments, the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations, which agree to operate under his advise or direction, except that nothing contained in this Act shall limit or in any way affect the responsibilities of the American National Red Cross under the Act of January 5, 1905, as amended (33 Stat. 599); [and]

(4) *not later than one month after the date of the declaration of a major disaster or emergency, make an initial appraisal of the types of recovery assistance needed that incorporates, as appropriate, recommendations of the Federal interagency disaster recovery task force established under section 330;*

(5) *coordinate with State government officials the establishment of detailed short-term and long-term recovery plans and methods for implementation of such plans; and*

[(4)] (6) take such other action, consistent with authority delegated to him by the President, and consistent with the provisions of this Act, as he may deem necessary to assist local citizens and public officials in promptly obtaining assistance to which they are entitled.

\* \* \* \* \*

**SEC. 303. EMERGENCY SUPPORT AND RESPONSE TEAMS.**

(a) \* \* \*

(b) EMERGENCY RESPONSE TEAMS.—

(1) ESTABLISHMENT.—In carrying out subsection (a), the President, acting through the [Director] Administrator of the Federal Emergency Management Agency, shall establish—

(A) \* \* \*

\* \* \* \* \*

(2) TARGET CAPABILITY LEVEL.—The [Director] Administrator shall ensure that specific target capability levels, as defined pursuant to the guidelines established under section 646(a) of the Post-Katrina Emergency Management Reform Act of 2006, are established for Federal emergency response teams.

(3) PERSONNEL.—The President, acting through the [Director] Administrator, shall ensure that the Federal emergency response teams consist of adequate numbers of properly planned, organized, equipped, trained, and exercised personnel

to achieve the established target capability levels. Each emergency response team shall work in coordination with State and local officials and onsite personnel associated with a particular incident.

(4) **READINESS REPORTING.**—The **[Director]** *Administrator* shall evaluate team readiness on a regular basis and report team readiness levels in the report required under section 652(a) of the Post-Katrina Emergency Management Reform Act of 2006.

\* \* \* \* \*

PERFORMANCE OF SERVICES

SEC. 306. (a) \* \* \*

\* \* \* \* \*

(c) **HEALTH BENEFITS.**—

(1) **IN GENERAL.**—*Notwithstanding any provision of title 5, United States Code, or related regulations limiting or prohibiting the provision of health benefits for temporary or intermittent employees, personnel appointed under subsection (b)(1) shall be eligible to enroll in the Federal Employees Health Benefits plan or any successor health benefits plan approved and administered by the Office of Personnel Management under terms and conditions set by the agency appointing the temporary personnel.*

(2) **ANNUAL REPORT.**—*Not later than one year after the date of enactment of this subsection, and annually thereafter, the President shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the implementation of this subsection.*

\* \* \* \* \*

USE AND COORDINATION OF RELIEF ORGANIZATIONS

SEC. 309. (a) \* \* \*

(b) The President is authorized to enter into agreements, *including grant agreements*, with the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief or disaster assistance organizations under which the disaster relief activities of such organizations may be coordinated by the Federal coordinating officer whenever such organizations are engaged in providing relief during and after a major disaster or emergency. Any such agreement shall include provisions assuring that use of Federal facilities, supplies, and services will be in compliance with regulations prohibiting duplication of benefits and guaranteeing nondiscrimination promulgated by the President under this Act, and such other regulation as the President may require.

\* \* \* \* \*

SEC. 326. **DESIGNATION OF SMALL STATE AND RURAL ADVOCATE.**

(a) \* \* \*

\* \* \* \* \*

(c) **DUTIES.**—The Small State and Rural Advocate shall—

(1) \* \* \*

\* \* \* \* \*

(3) conduct such other activities as the [Director] Administrator of the Federal Emergency Management Agency considers appropriate.

**SEC. 327. DISPOSAL OF EXCESS MATERIALS, SUPPLIES, AND EQUIPMENT.**

(a) *IN GENERAL.*—Notwithstanding any other provision of law, if the President determines that materials, supplies, or equipment acquired by the President pursuant to title IV or V for response or recovery efforts in connection with a major disaster or emergency is in excess of the amount needed for those efforts, the President may transfer the excess materials, supplies, or equipment, by sale, at a price that is fair and equitable, directly to a State, local government, or relief or disaster assistance organization for the purpose of—

(1) assisting disaster survivors in other major disasters and emergencies; and

(2) assisting survivors in incidents caused by a hazard that do not result in a declaration of a major disaster or emergency if—

(A) the Governor of the affected State certifies that—

(i) there is an urgent need for the materials, supplies, or equipment; and

(ii) the State is unable to provide the materials, supplies, or equipment in a timely manner; and

(B) the President determines that the materials, supplies, or equipment is not readily available from commercial sources, except that this subparagraph shall not apply in the case of a transfer of perishable supplies.

(b) *DEPOSIT OF PROCEEDS.*—Notwithstanding any other provision of law, any proceeds received under subsection (a) shall be deposited in the appropriate Disaster Relief Fund account.

(c) *HAZARD DEFINED.*—In this section, the term “hazard” has the meaning given that term by section 602.

**SEC. 328. NATIONAL URBAN SEARCH AND RESCUE RESPONSE SYSTEM.**

(a) *DEFINITIONS.*—In this section, the following definitions apply:

(1) *ADMINISTRATOR.*—The term “Administrator” means the Administrator of the Federal Emergency Management Agency.

(2) *AGENCY.*—The term “Agency” means the Federal Emergency Management Agency.

(3) *HAZARD.*—The term “hazard” has the meaning given that term by section 602.

(4) *NON-EMPLOYEE SYSTEM MEMBER.*—The term “non-employee System member” means a System member not employed by a sponsoring agency or participating agency.

(5) *PARTICIPATING AGENCY.*—The term “participating agency” means a State or local government, nonprofit organization, or private organization that has executed an agreement with a sponsoring agency to participate in the System.

(6) *SPONSORING AGENCY.*—The term “sponsoring agency” means a State or local government that is the sponsor of a task force designated by the Administrator to participate in the System.

(7) *SYSTEM.*—The term “System” means the National Urban Search and Rescue Response System to be administered under this section.

(8) *SYSTEM MEMBER.*—The term “System member” means an individual who is not a full-time employee of the Federal Government, who serves on a task force or on a System management or other technical team.

(9) *TASK FORCE.*—The term “task force” means an urban search and rescue team designated by the Administrator to participate in the System.

(b) *GENERAL AUTHORITY.*—Subject to the requirements of this section, the Administrator shall continue to administer the emergency response system known as the National Urban Search and Rescue Response System.

(c) *FUNCTIONS.*—In administering the System, the Administrator shall provide for a national network of standardized search and rescue resources to assist States and local governments in responding to hazards.

(d) *TASK FORCES.*—

(1) *DESIGNATION.*—The Administrator shall designate task forces to participate in the System. The Administrator shall determine the criteria for such participation.

(2) *SPONSORING AGENCIES.*—Each task force shall have a sponsoring agency. The Administrator shall enter into an agreement with the sponsoring agency of each task force with respect to the participation of the task force in the System.

(3) *COMPOSITION.*—

(A) *PARTICIPATING AGENCIES.*—A task force may include, at the discretion of the sponsoring agency of the task force, one or more participating agencies. The sponsoring agency of a task force shall enter into an agreement with each participating agency of the task force with respect to the participation of the participating agency on the task force.

(B) *OTHER INDIVIDUALS.*—A task force may also include, at the discretion of the sponsoring agency of the task force, other individuals not otherwise associated with the sponsoring agency or a participating agency of the task force. The sponsoring agency of a task force may enter into a separate agreement with each such individual with respect to the participation of the individual on the task force.

(e) *MANAGEMENT AND TECHNICAL TEAMS.*—The Administrator shall maintain such management teams and other technical teams as the Administrator determines are necessary to administer the System.

(f) *APPOINTMENT OF SYSTEM MEMBERS INTO FEDERAL SERVICE.*—

(1) *IN GENERAL.*—The Administrator may appoint a System member into Federal service for a period of service to provide for the participation of the System member in exercises, preincident staging, major disaster and emergency response activities, and training events sponsored or sanctioned by the Administrator.

(2) *NONAPPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.*—The Administrator may make appointments under paragraph (1) without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

(3) *RELATIONSHIP TO OTHER AUTHORITIES.*—*The authority of the Administrator to make appointments under this subsection shall not affect any other authority of the Administrator under this Act.*

(4) *LIMITATION.*—*A System member who is appointed into Federal service under paragraph (1) shall not be deemed an employee of the United States for purposes other than those specifically set forth in this section.*

(g) *COMPENSATION.*—

(1) *PAY OF SYSTEM MEMBERS.*—*Subject to such terms and conditions as the Administrator may impose by regulation, the Administrator shall make payments to the sponsoring agency of a task force—*

(A) *to reimburse each employer of a System member on the task force for compensation paid by the employer to the System member for any period during which the System member is appointed into Federal service under subsection (f)(1); and*

(B) *to make payments directly to a non-employee System member on the task force for any period during which the non-employee System member is appointed into Federal service under subsection (f)(1).*

(2) *REIMBURSEMENT FOR EMPLOYEES FILLING POSITIONS OF SYSTEM MEMBERS.*—

(A) *IN GENERAL.*—*Subject to such terms and conditions as the Administrator may impose by regulation, the Administrator shall make payments to the sponsoring agency of a task force to reimburse each employer of a System member on the task force for compensation paid by the employer to an employee filling a position normally filled by the System member for any period during which the System member is appointed into Federal service under subsection (f)(1).*

(B) *LIMITATION.*—*Costs incurred by an employer shall be eligible for reimbursement under subparagraph (A) only to the extent that the costs are in excess of the costs that would have been incurred by the employer had the System member not been appointed into Federal service under subsection (f)(1).*

(3) *METHOD OF PAYMENT.*—*A System member shall not be entitled to pay directly from the Agency for a period during which the System member is appointed into Federal service under subsection (f)(1).*

(h) *PERSONAL INJURY, ILLNESS, DISABILITY, OR DEATH.*—

(1) *IN GENERAL.*—*A System member who is appointed into Federal service under subsection (f)(1) and who suffers personal injury, illness, disability, or death as a result of a personal injury sustained while acting in the scope of such appointment shall, for the purposes of subchapter I of chapter 81 of title 5, United States Code, be treated as though the member were an employee (as defined by section 8101 of that title) who had sustained the injury in the performance of duty.*

(2) *ELECTION OF BENEFITS.*—

(A) *IN GENERAL.*—*If a System member (or, in the case of the death of the System member, the System member's dependent) is entitled—*

(i) under paragraph (1) to receive benefits under subchapter I of chapter 81 of title 5, United States Code, by reason of personal injury, illness, disability, or death, and

(ii) to receive benefits from a State or local government by reason of the same personal injury, illness, disability, or death,

the System member or dependent shall elect to receive either the benefits referred to in clause (i) or (ii).

(B) *DEADLINE.*—A System member or dependent shall make an election of benefits under subparagraph (A) not later than one year after the date of the personal injury, illness, disability, or death that is the reason for the benefits or until such later date as the Secretary of Labor may allow for reasonable cause shown.

(C) *EFFECT OF ELECTION.*—An election of benefits made under this paragraph is irrevocable unless otherwise provided by law.

(3) *REIMBURSEMENT FOR STATE OR LOCAL BENEFITS.*—Subject to such terms and conditions as the Administrator may impose by regulation, in the event that a System member or dependent elects benefits from a State or local government under paragraph (2)(A), the Administrator shall reimburse the State or local government for the value of those benefits.

(i) *LIABILITY.*—A System member appointed into Federal service under subsection (f)(1), while acting within the scope of the appointment, is deemed an employee of the Government under section 1346(b) of title 28, United States Code, and chapter 171 of that title, relating to tort claims procedure.

(j) *EMPLOYMENT AND REEMPLOYMENT RIGHTS.*—With respect to a System member who is not a regular full-time employee of a sponsoring agency or participating agency, the following terms and conditions apply:

(1) Service as a System member shall be deemed “service in the uniformed services” for purposes of chapter 43 of title 38, United States Code, relating to employment and reemployment rights of individuals who have performed service in the uniformed services (regardless of whether the individual receives compensation for such participation). All rights and obligations of such persons and procedures for assistance, enforcement, and investigation shall be as provided for in such chapter.

(2) Preclusion of giving notice of service by necessity of appointment under this section shall be deemed preclusion by “military necessity” for purposes of section 4312(b) of title 38, United States Code, pertaining to giving notice of absence from a position of employment. A determination of such necessity shall be made by the Administrator and shall not be subject to judicial review.

(k) *LICENSES AND PERMITS.*—If a System member holds a valid license, certificate, or other permit issued by any State or other governmental jurisdiction evidencing the member’s qualifications in any professional, mechanical, or other skill or type of assistance required by the System, the System member shall be deemed to be performing a Federal activity when rendering aid involving such skill

or assistance during a period of appointment into Federal service under subsection (f)(1).

(l) **ADVISORY COMMITTEE.**—

(1) **IN GENERAL.**—The Administrator shall establish and maintain an advisory committee to provide expert recommendations to the Administrator in order to assist the Administrator in administering the System.

(2) **COMPOSITION.**—The advisory committee shall be composed of members from geographically diverse areas, and shall include—

(A) the chief officer or senior executive from at least 3 sponsoring agencies;

(B) the senior emergency manager from at least 2 States that include sponsoring agencies; and

(C) at least one representative recommended by the leaders of the task forces.

(3) **INAPPLICABILITY OF TERMINATION REQUIREMENT.**—Section 14(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory committee under this subsection.

(m) **PREPAREDNESS COOPERATIVE AGREEMENTS.**—

(1) **IN GENERAL.**—Subject to the availability of appropriations for such purpose, the Administrator shall enter into an annual preparedness cooperative agreement with each sponsoring agency. Amounts made available to a sponsoring agency under such a preparedness cooperative agreement shall be for the following purposes:

(A) Training and exercises, including training and exercises with other Federal, State, and local government response entities.

(B) Acquisition and maintenance of equipment, including interoperable communications and personal protective equipment.

(C) Medical monitoring required for responder safety and health in anticipation of and following a major disaster, emergency, or other hazard, as determined by the Administrator.

(2) **AVAILABILITY OF APPROPRIATIONS.**—Notwithstanding section 1552(b) of title 31, United States Code, amounts made available for cooperative agreements under this subsection that are not expended shall be deposited in an Agency account and shall remain available for such agreements without fiscal year limitation.

(n) **RESPONSE COOPERATIVE AGREEMENTS.**—The Administrator shall enter into a response cooperative agreement with each sponsoring agency, as appropriate, under which the Administrator agrees to reimburse the sponsoring agency for costs incurred by the sponsoring agency in responding to a major disaster or emergency.

(o) **OBLIGATIONS.**—The Administrator may incur all necessary obligations consistent with this section in order to ensure the effectiveness of the System.

(p) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **IN GENERAL.**—There is authorized to be appropriated to carry out this section \$52,000,000 for each of fiscal years 2010, 2011, and 2012. Such sums shall be in addition to amounts

made available from the Disaster Relief Fund for response cooperative agreements entered into under subsection (n).

(2) **ADMINISTRATIVE EXPENSES.**—The Administrator may use not to exceed 6 percent of the funds appropriated for a fiscal year pursuant to paragraph (1) for salaries, expenses, and other administrative costs incurred by the Administrator in carrying out this section.

**SEC. 329. DISASTER RELIEF FUND.**

(a) **IN GENERAL.**—There is in the Treasury a fund known as the Disaster Relief Fund.

(b) **DEPOSITS AND CREDITS.**—The Fund shall consist of amounts appropriated and credited to the Fund pursuant to this Act.

(c) **ELIGIBLE USES OF FUND.**—Amounts in the Fund shall be available to the President, as provided in advance in appropriations Acts—

(1) to provide assistance in response to a major disaster or emergency pursuant to titles IV and V; and

(2) for programs and activities of the Federal Emergency Management Agency that support the provision of such assistance, including readiness and other programs and activities that are not readily attributable to a single major disaster or emergency.

(d) **LIMITATION.**—Amounts made available from the Fund for programs and activities referred to in subsection (c)(2) may not exceed \$350,000,000 in any fiscal year.

(e) **ANNUAL REPORT.**—On or before the date on which the President submits the budget of the United States to the Congress under section 1105 of title 31, United States Code, the President shall submit each year to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the uses of the Fund in the previous fiscal year.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Fund such sums as may be necessary.

(g) **AVAILABILITY OF AMOUNTS.**—Amounts in the Fund shall remain available until expended.

**SEC. 330. FEDERAL INTERAGENCY DISASTER RECOVERY TASK FORCE.**

(a) **ESTABLISHMENT.**—The President shall establish a Federal interagency disaster recovery task force (hereinafter referred to in this section as the “task force”) to carry out the following:

(1) Identify, maintain a catalogue of, and submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate at least annually a report describing the Federal programs that may be used to assist in recovery efforts after a major disaster or emergency and make such report available to the public on the Internet.

(2) Ensure ongoing communication between the Federal departments and agencies determined by the President to administer the Federal programs referred to in paragraph (1) to enhance and expedite the recovery efforts of the Federal Government with respect to a major disaster or emergency.

(b) **CHAIRPERSON.**—The Administrator of the Federal Emergency Management Agency shall serve as the chairperson of the task force.

(c) *MEMBERSHIP.*—The task force shall include a representative of each Federal department and agency determined by the President to administer a program that may be used to assist in recovery efforts after a major disaster or emergency.

(d) *MEETING FREQUENCY.*—The task force shall meet at least once each year.

## TITLE IV—MAJOR DISASTER ASSISTANCE PROGRAMS

\* \* \* \* \*

### SEC. 403. ESSENTIAL ASSISTANCE.

(a) *IN GENERAL.*—Federal agencies may on the direction of the President, provide assistance essential to meeting immediate threats to life and property resulting from a major disaster, as follows:

(1) \* \* \*

\* \* \* \* \*

(3) *WORK AND SERVICES TO SAVE LIVES AND PROTECT PROPERTY.*—Performing on public or private lands or waters any work or services essential to saving lives and protecting and preserving property or public health and safety, including—

(A) \* \* \*

(B) search and rescue, emergency medical care, emergency mass care, emergency shelter, and provision of food, water, medicinedurable **【medical equipment,,】** *medical equipment*, and other essential needs, including movement of supplies or persons;

\* \* \* \* \*

**【(J) provision of rescue, care, shelter, and essential needs—**

**【(i) to individuals with household pets and service animals; and**

**【(ii) to such pets and animals.】**

\* \* \* \* \*

### SEC. 404. HAZARD MITIGATION.

(a) \*

(b) *PROPERTY ACQUISITION AND RELOCATION ASSISTANCE.*—

(1) *GENERAL AUTHORITY.*—In providing hazard mitigation assistance under this section in connection with flooding, the **【Director】** *Administrator* of the Federal Emergency Management Agency may provide property acquisition and relocation assistance for projects that meet the requirements of paragraph (2).

(2) *TERMS AND CONDITIONS.*—An acquisition or relocation project shall be eligible to receive assistance pursuant to paragraph (1) only if—

(A) \* \* \*

(B) on or after the date of enactment of this subsection, the applicant for the assistance enters into an agreement with the **【Director】** *Administrator* that provides assurances that—

(i) \* \* \*

(ii) no new structure will be erected on property acquired, accepted or from which a structure was removed under the acquisition or relocation program other than—

(I) \* \* \*

\* \* \* \* \*

(III) a structure that the **[Director]** *Administrator* approves in writing before the commencement of the construction of the structure; and

\* \* \* \* \*

(d) *ADDITIONAL MITIGATION ASSISTANCE.*—

(1) *IN GENERAL.*—*If, as of the date of the declaration of a major disaster, the Governor of the affected State has submitted to the President a certification under paragraph (2), and the State is in compliance with updating procedures established under paragraph (3), the President may increase the maximum total of contributions under this section for the major disaster, as specified in subsection (a) and section 322(e), by an amount equal to 4 percent of the estimated aggregate amount of grants to be made (less any associated administrative costs) under this Act with respect to the major disaster.*

(2) *SUBMISSION OF CERTIFICATION.*—*To be eligible for increased contributions under paragraph (1), a State shall submit to the President, subject to the approval of the President, a certification that the State’s building code—*

(A) *is consistent with the most recent version of a nationally recognized model building code;*

(B) *has been adopted by the State within 6 years of the most recent version of the nationally recognized model building code;*

(C) *uses the nationally recognized model building code as a minimum standard; and*

(D) *is being actively enforced by the State.*

(3) *PERIODIC UPDATES.*—

(A) *IN GENERAL.*—*A Governor of a State that has submitted a certification under paragraph (2) shall update the State’s building code and resubmit a certification under paragraph (2) at least once every 6 years.*

(B) *DEADLINES.*—*The President shall issue regulations establishing procedures for State compliance with the requirements of subparagraph (A). The procedures shall be consistent with requirements related to mitigation planning under section 322.*

(4) *DEFINITIONS.*—*In this subsection, the following definitions apply:*

(A) *ACTIVELY ENFORCE.*—*The term “actively enforce” means jurisdictional execution of all phases of a State building code in the process of examination and approval of construction plans, specifications, and technical data and the inspection of new construction or renovation with respect to natural hazards.*

(B) *NATIONALLY RECOGNIZED MODEL BUILDING CODE.*—*The term “nationally recognized model building code”*

means a building code for residential and commercial construction and construction materials that—

(i) has been developed and published by a code organization in an open consensus type forum with input from national experts; and

(ii) is based on national structural design standards that establish minimum acceptable criteria for the design, construction, and maintenance of residential and commercial buildings for the purpose of protecting the health, safety, and general welfare of the building's users against natural disasters.

(C) STATE BUILDING CODE.—The term “State building code” means requirements and associated standards for residential and commercial construction and construction materials that are implemented on a statewide basis by ordinance, resolution, law, housing or building code, or zoning ordinance. At a minimum, such requirements and associated standards shall apply—

(i) to construction-related activities of residential building contractors applicable to single-family and 2-family residential structures; and

(ii) to construction-related activities of engineers, architects, designers, and commercial building contractors applicable to the structural safety, design, and construction of commercial, industrial, and multi-family structures.

(5) REGULATIONS.—The President, acting through the Administrator of the Federal Emergency Management Agency, shall issue such regulations as may be necessary to carry out this subsection.

\* \* \* \* \*

**SEC. 406. REPAIR, RESTORATION, AND REPLACEMENT OF DAMAGED FACILITIES.**

(a) CONTRIBUTIONS.—

(1) \* \* \*

\* \* \* \* \*

(4) NOTIFICATION TO CONGRESS.—Before making any contribution under this section in an amount greater than **[\$20,000,000] \$5,000,000**, the President shall notify—

(A) \* \* \*

\* \* \* \* \*

(5) CONTRIBUTION STATUS REPORTS.—Not less frequently than every 180 days, the President shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the status of applications, obligations, and contributions under this section with respect to each major disaster for which, on the date of the transmission of such report, a contribution is eligible to be requested or made under this section.

\* \* \* \* \*

(c) LARGE IN-LIEU CONTRIBUTIONS.—

(1) FOR PUBLIC FACILITIES.—

(A) \* \* \*

\* \* \* \* \*

(C) LIMITATIONS.—Funds made available to a State or local government under this paragraph may not be used for—

(i) \* \* \*

(ii) any uninsured public facility located in a special flood hazard area identified by the [Director] Administrator of the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

(2) FOR PRIVATE NONPROFIT FACILITIES.—

(A) \* \* \*

\* \* \* \* \*

(C) LIMITATIONS.—Funds made available to a person under this paragraph may not be used for—

(i) \* \* \*

(ii) any uninsured private nonprofit facility located in a special flood hazard area identified by the [Director] Administrator of the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

(d) FLOOD INSURANCE.—

(1) REDUCTION OF FEDERAL ASSISTANCE.—If a public facility or private nonprofit facility located in a special flood hazard area identified for more than 1 year by the [Director] Administrator pursuant to the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.) is damaged or destroyed, after the 180th day following the date of the enactment of the Disaster Relief and Emergency Assistance Amendments of 1988, by flooding in a major disaster and such facility is not covered on the date of such flooding by flood insurance, the Federal assistance which would otherwise be available under this section with respect to repair, restoration, reconstruction, and replacement of such facility and associated expenses shall be reduced in accordance with paragraph (2).

\* \* \* \* \*

(e) ELIGIBLE COST.—

(1) \* \* \*

\* \* \* \* \*

(3) EXPERT PANEL.—

(A) ESTABLISHMENT.—Not later than 18 months after the date of the enactment of this paragraph, the President, acting through the [Director] Administrator of the Federal Emergency Management Agency, shall establish an expert panel, which shall include representatives from the construction industry and State and local government.

\* \* \* \* \*

(f) SPECIAL PROCEDURES FOR WIDESPREAD DAMAGE.—

(1) IN GENERAL.—If, at the request of the Governor of a State, the President makes a determination that a major disaster has caused extensive and widespread damage and destruction in

*the State and that utilizing special procedures to expedite the repair, restoration, reconstruction, or replacement of eligible facilities under this section is in the public interest, the President may provide assistance under this section in connection with the major disaster utilizing the special procedures.*

(2) *CONDITIONS FOR ASSISTANCE.—*

(A) *IN GENERAL.—In providing assistance under the special procedures authorized by this subsection, the President may provide such assistance subject to any limitations or other conditions the President establishes by regulation.*

(B) *FACILITY RECOVERY SPENDING PLAN.—To be eligible for assistance under the special procedures authorized by this subsection, a State shall submit to the President a facility recovery spending plan. Receipt of assistance under the special procedures shall be conditioned on a determination by the President that the plan is consistent with the requirements under this section.*

(3) *PLANNING ASSISTANCE.—*

(A) *IN GENERAL.—Not later than 10 days after the date the President makes an affirmative determination, at the request of a State, under paragraph (1) (or at a later date if requested by the Governor of the State), the President shall provide the State with assistance to develop a plan under paragraph (2)(B).*

(B) *TYPES OF ASSISTANCE.—*

(i) *FINANCIAL ASSISTANCE.—The President may provide financial assistance to a State to assist the development of a plan under paragraph (2)(B).*

(ii) *TECHNICAL ASSISTANCE.—The President may provide, as appropriate, technical assistance to a State to assist the development of a plan under paragraph (2)(B).*

(iii) *EMERGENCY MANAGEMENT ASSISTANCE COMPACT.—Assistance to develop a plan under paragraph (2)(B) may include assistance through the Emergency Management Assistance Compact described in section 617.*

(4) *LARGE IN-LIEU CONTRIBUTIONS.—In providing assistance under the special procedures authorized by this subsection, notwithstanding the percentages specified in subsections (c)(1)(A) and (c)(2)(A), the President may make a contribution to a State or local government or person that owns or operates a private nonprofit facility for the purposes described in such subsections in an amount up to 100 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing a facility if the President determines a contribution in that amount is in the public interest.*

DEBRIS REMOVAL

SEC. 407. (a) \* \* \*

\* \* \* \* \*

(d) *FEDERAL SHARE.—The Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of debris and wreckage removal carried out under this section. The Fed-*

*eral share shall be increased by 5 percent for States and local governments that (1) have a debris management plan approved by the Administrator of the Federal Emergency Management Agency; and (2) have prequalified 2 or more debris and wreckage removal contractors before the date of declaration of the major disaster. To qualify for the increased Federal share under the preceding sentence, a debris management plan shall be resubmitted to the Administrator for approval every 4 years.*

\* \* \* \* \*

**SEC. 408. FEDERAL ASSISTANCE TO INDIVIDUALS AND HOUSEHOLDS.**

(a) \* \* \*

\* \* \* \* \*

(c) TYPES OF HOUSING ASSISTANCE.—

(1) \* \* \*

\* \* \* \* \*

(5) *TEMPORARY MORTGAGE AND RENTAL PAYMENTS.*—*The President may provide assistance on a temporary basis in the form of mortgage or rental payments to or on behalf of individuals and families who, as a result of financial hardship caused by a major disaster, are at imminent risk of dispossession or eviction from a residence by reason of foreclosure of any mortgage or lien, cancellation of any contract for sale, or termination of any lease, entered into prior to such disaster. Such assistance shall be provided for the duration of the period of financial hardship, but not to exceed 18 months of assistance or the maximum amount of assistance that is authorized to be provided pursuant to subsection (h).*

(d) TERMS AND CONDITIONS RELATING TO HOUSING ASSISTANCE.—

(1) \* \* \*

(2) DISPOSAL OF UNITS.—

(A) \* \* \*

(B) OTHER METHODS OF DISPOSAL.—If not disposed of under subparagraph (A), a temporary housing unit purchased under this section by the President for the purpose of housing disaster victims—

(i) may be sold to any person; **[or]**

(ii) may be sold, transferred, donated, or otherwise made available directly to a State or other governmental entity or to a voluntary organization for the sole purpose of providing temporary housing to disaster victims in major disasters and emergencies if, as a condition of the sale, transfer, or donation, the State, other governmental agency, or voluntary organization agrees—

(I) \* \* \*

(II) to obtain and maintain hazard and flood insurance on the housing unit**[.];** or

(iii) may be sold directly to a State or other governmental entity or to a voluntary organization for the sole purpose of providing temporary housing to disaster victims in disasters and incidents caused by a hazard (as such term is defined in section 602) that do not result in a declaration of a major disaster or emergency

if, as a condition of the sale, the State, other governmental agency, or voluntary organization agrees—  
(I) to comply with the nondiscrimination provisions of section 308; and  
(II) to obtain and maintain hazard and flood insurance in the housing units.

\* \* \* \* \*

**[EMERGENCY COMMUNICATIONS**

**[SEC. 418. The President]**

**SEC. 418. EMERGENCY COMMUNICATIONS.**

(a) *IN GENERAL.*—The President is authorized during, or in anticipation of, an emergency or major disaster to provide assistance, including financial assistance, equipment, supplies, and personnel, in order to establish temporary communications systems and to make such communications available to State and local government officials and other persons as he deems appropriate.

(b) *FEDERAL SHARE.*—The Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of such assistance.

**[EMERGENCY PUBLIC TRANSPORTATION**

**[SEC. 419. The President]**

**SEC. 419. EMERGENCY PUBLIC TRANSPORTATION.**

(a) *IN GENERAL.*—The President is authorized to provide assistance to a State or local government, including financial assistance, equipment, supplies, and personnel, in order to provide temporary public transportation service in an area affected by **[a major]** an emergency or major disaster to meet emergency needs and to provide transportation to governmental offices, supply centers, stores, post offices, schools, major employment centers, and such other places as may be necessary in order to enable the community to resume its normal pattern of life as soon as possible.

(b) *FEDERAL SHARE.*—The Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of such assistance.

\* \* \* \* \*

**SEC. 423. APPEALS OF ASSISTANCE DECISIONS.**

(a) \* \* \*

**[(b) PERIOD FOR DECISION.**—A decision regarding an appeal under subsection (a) shall be rendered within 90 days after the date on which the Federal official designated to administer such appeals receives notice of such appeal.]

(b) *PERIOD FOR DECISION.*—

(1) *IN GENERAL.*—A decision regarding an appeal under subsection (a) shall be rendered within 60 days after the date on which the Federal official designated to administer such appeal receives notice of such appeal.

(2) *FAILURE TO SATISFY DEADLINE.*—If the Federal official fails to satisfy the requirement under paragraph (1), the Federal official shall provide a written explanation of such failure

*to the applicant. The President shall transmit quarterly to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on such failures.*

\* \* \* \* \*

**SEC. 426. CASE MANAGEMENT SERVICES.**

The President may provide case management services, including financial assistance, to State or local government agencies or [qualified private organizations] *qualified relief or disaster assistance organizations* to provide such [services, to victims] *services to survivors* of major disasters to identify and address unmet needs.

**SEC. [425.] 427. ESSENTIAL SERVICE PROVIDERS.**

(a) \* \* \*

\* \* \* \* \*

**TITLE V—EMERGENCY ASSISTANCE PROGRAMS**

**SEC. 502. FEDERAL EMERGENCY ASSISTANCE.**

(a) SPECIFIED.—In any emergency, the President may—

(1) \* \* \*

\* \* \* \* \*

(7) assist State and local governments in the distribution of medicine, food, and other consumable supplies, and emergency assistance; [and]

(8) provide accelerated Federal assistance and Federal support where necessary to save lives, prevent human suffering, or mitigate severe damage, which may be provided in the absence of a specific request and in which case the President—

(A) \* \* \*

(B) shall not, in notifying and coordinating with a State under subparagraph (A), delay or impede the rapid deployment, use, and distribution of critical resources to victims of an emergency[.]; and

(9) *provide assistance for rescue, care, shelter, and essential needs—*

(A) *to individuals with household pets and service animals; and*

(B) *to such pets and animals.*

\* \* \* \* \*

**TITLE VI—EMERGENCY PREPAREDNESS**

\* \* \* \* \*

**SEC. 602. DEFINITIONS.**

(a) DEFINITIONS.—For purposes of this title only:

(1) \* \* \*

\* \* \* \* \*

(4) ORGANIZATIONAL EQUIPMENT.—The term “organizational equipment” means equipment determined by the [Director] Administrator to be necessary to an emergency preparedness organization, as distinguished from personal equipment, and of such a type or nature as to require it to be financed in whole or in part by the Federal Government. Such term does not include those items which the local community normally uses in combating local disasters, except when required in unusual quantities dictated by the requirements of the emergency preparedness plans.

\* \* \* \* \*

[(7) DIRECTOR.—The term “ Administrator” means the Administrator of the Federal Emergency Management Agency.]

(7) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Federal Emergency Management Agency.

\* \* \* \* \*

**SEC. 603. ADMINISTRATION OF TITLE.**

This title shall be carried out by the [Director] Administrator of the Federal Emergency Management Agency.

**Subtitle A—Powers and Duties**

**SEC. 611. DETAILED FUNCTIONS OF ADMINISTRATION.**

(a) IN GENERAL.—In order to carry out the policy described in section 601, the [Director] Administrator shall have the authorities provided in this section.

(b) FEDERAL EMERGENCY RESPONSE PLANS AND PROGRAMS.—The [Director] Administrator may prepare Federal response plans and programs for the emergency preparedness of the United States and sponsor and direct such plans and programs. To prepare such plans and programs and coordinate such plans and programs with State efforts, the [Director] Administrator may request such reports on State plans and operations for emergency preparedness as may be necessary to keep the President, Congress, and the States advised of the status of emergency preparedness in the United States.

(c) DELEGATION OF EMERGENCY PREPAREDNESS RESPONSIBILITIES.—With the approval of the President, the [Director] Administrator may delegate to other departments and agencies of the Federal Government appropriate emergency preparedness responsibilities and review and coordinate the emergency preparedness activities of the departments and agencies with each other and with the activities of the States and neighboring countries.

(d) COMMUNICATIONS AND WARNINGS.—The [Director] Administrator may make appropriate provision for necessary emergency preparedness communications and for dissemination of warnings to the civilian population of a hazard.

(e) EMERGENCY PREPAREDNESS MEASURES.—The [Director] Administrator may study and develop emergency preparedness measures designed to afford adequate protection of life and property, including—

(1) \* \* \*

\* \* \* \* \*

(f) TRAINING PROGRAMS.—(1) The **[Director]** *Administrator* may—

(A) \* \* \*

(B) conduct or operate schools or including the payment of travel expenses, in accordance with subchapter I of chapter 57 of title 5, United States Code, and the Standardized Government Travel Regulations, and per diem allowances, in lieu of subsistence for trainees in attendance or the furnishing of subsistence and quarters for trainees and instructors on terms prescribed by the **[Director]** *Administrator*; and

\* \* \* \* \*

(2) The terms prescribed by the **[Director]** *Administrator* for the payment of travel expenses and per diem allowances authorized by this subsection shall include a provision that such payment shall not exceed one-half of the total cost of such expenses.

(3) The **[Director]** *Administrator* may lease real property required for the purpose of carrying out this subsection, but may not acquire fee title to property unless specifically authorized by law.

(g) PUBLIC DISSEMINATION OF EMERGENCY PREPAREDNESS INFORMATION.—The **[Director]** *Administrator* may publicly disseminate appropriate emergency preparedness information by all appropriate means.

(h) EMERGENCY PREPAREDNESS COMPACTS.—(1) The **[Director]** *Administrator* shall establish a program supporting the development of emergency preparedness compacts for acts of terrorism, disasters, and emergencies throughout the Nation, by—

(A) \* \* \*

\* \* \* \* \*

(2) The **[Director]** *Administrator* may—

(A) \* \* \*

\* \* \* \* \*

(i) MATERIALS AND FACILITIES.—(1) The **[Director]** *Administrator* may procure by condemnation or otherwise, construct, lease, transport, store, maintain, renovate or distribute materials and facilities for emergency preparedness, with the right to take immediate possession thereof.

\* \* \* \* \*

(3) The **[Director]** *Administrator* may lease real property required for the purpose of carrying out the provisions of this subsection, but shall not acquire fee title to property unless specifically authorized by law.

(4) The **[Director]** *Administrator* may procure and maintain under this subsection radiological, chemical, bacteriological, and biological agent monitoring and decontamination devices and distribute such devices by loan or grant to the States for emergency preparedness purposes, under such terms and conditions as the **[Director]** *Administrator* shall prescribe.

(j) FINANCIAL CONTRIBUTIONS.—(1) The **[Director]** *Administrator* may make financial contributions, on the basis of programs or projects approved by the **[Director]** *Administrator*, to the States for emergency preparedness purposes, including the procurement, construction, leasing, or renovating of materials and facilities. Such contributions shall be made on such terms or conditions as the **[Di-**

rector] *Administrator* shall prescribe, including the method of purchase, the quantity, quality, or specifications of the materials or facilities, and such other factors or care or treatment to assure the uniformity, availability, and good condition of such materials or facilities.

(2) The [Director] *Administrator* may make financial contributions, on the basis of programs or projects approved by the [Director] *Administrator*, to the States and local authorities for animal emergency preparedness purposes, including the procurement, construction, leasing, or renovating of emergency shelter facilities and materials that will accommodate people with pets and service animals.

\* \* \* \* \*

(4) The amounts authorized to be contributed by the [Director] *Administrator* to each State for organizational equipment shall be equally matched by such State from any source it determines is consistent with its laws.

(5) Financial contributions to the States for shelters and other protective facilities shall be determined by taking the amount of funds appropriated or available to the [Director] *Administrator* for such facilities in each fiscal year and apportioning such funds among the States in the ratio which the urban population of the critical target areas (as determined by the [Director] *Administrator*) in each State, at the time of the determination, bears to the total urban population of the critical target areas of all of the States.

(6) The amounts authorized to be contributed by the [Director] *Administrator* to each State for such shelters and protective facilities shall be equally matched by such State from any source it determines is consistent with its laws and, if not matched within a reasonable time, the [Director] *Administrator* may reallocate such amounts to other States under the formula described in paragraph (4). The value of any land contributed by any State or political subdivision thereof shall be excluded from the computation of the State share under this subsection.

(7) The amounts paid to any State under this subsection shall be expended solely in carrying out the purposes set forth herein and in accordance with State emergency preparedness programs or projects approved by the [Director] *Administrator*. The [Director] *Administrator* shall make no contribution toward the cost of any program or project for the procurement, construction, or leasing of any facility which (A) is intended for use, in whole or in part, for any purpose other than emergency preparedness, and (B) is of such kind that upon completion it will, in the judgment of the [Director] *Administrator*, be capable of producing sufficient revenue to provide reasonable assurance of the retirement or repayment of such cost; except that (subject to the preceding provisions of this subsection) the [Director] *Administrator* may make a contribution to any State toward that portion of the cost of the construction, reconstruction, or enlargement of any facility which the [Director] *Administrator* determines to be directly attributable to the incorporation in such facility of any feature of construction or design not necessary for the principal intended purpose thereof but which is, in the judgment of the [Director] *Administrator* necessary for the use of such facility for emergency preparedness purposes.

(8) The **[Director]** *Administrator* shall submit to Congress a report, at least annually, regarding all contributions made pursuant to this subsection.

(9) All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of any contribution of Federal funds made by the **[Director]** *Administrator* under this subsection shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act (40 U.S.C. 276a-276a-5)), and every such employee shall receive compensation at a rate not less than one and ½ times the basic rate of pay of the employee for all hours worked in any workweek in excess of eight hours in any workday or 40 hours in the workweek, as the case may be. The **[Director]** *Administrator* shall make no contribution of Federal funds without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276(c)).

(k) **SALE OR DISPOSAL OF CERTAIN MATERIALS AND FACILITIES.**—The **[Director]** *Administrator* may arrange for the sale or disposal of materials and facilities found by the **[Director]** *Administrator* to be unnecessary or unsuitable for emergency preparedness purposes in the same manner as provided for excess property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.). Any funds received as proceeds from the sale or other disposition of such materials and facilities shall be deposited into the Treasury as miscellaneous receipts.

**SEC. 612. MUTUAL AID PACTS BETWEEN STATES AND NEIGHBORING COUNTRIES.**

The **[Director]** *Administrator* shall give all practicable assistance to States in arranging, through the Department of State, mutual emergency preparedness aid between the States and neighboring countries.

**SEC. 613. CONTRIBUTIONS FOR PERSONNEL AND ADMINISTRATIVE EXPENSES.**

(a) **GENERAL AUTHORITY.**—To further assist in carrying out the purposes of this title, the **[Director]** *Administrator* may make financial contributions to the States (including interstate emergency preparedness authorities established pursuant to section 611(h)) for necessary and essential State and local emergency preparedness personnel and administrative expenses, on the basis of approved plans (which shall be consistent with the Federal emergency response plans for emergency preparedness) for the emergency preparedness of the States. The financial contributions to the States under this section may not exceed one-half of the total cost of such necessary and essential State and local emergency preparedness personnel and administrative expenses.

(b) **PLAN REQUIREMENTS.**—A plan submitted under this section shall—

(1) \* \* \*

\* \* \* \* \*

(3) provide for the development of State and local emergency preparedness operational plans, including a catastrophic incident annex, pursuant to standards approved by the [Director] Administrator;

\* \* \* \* \*

(5) provide that the State shall make such reports in such form and content as the [Director] Administrator may require;

(6) make available to duly authorized representatives of the [Director] Administrator and the Comptroller General, books, records, and papers necessary to conduct audits for the purposes of this section; and

\* \* \* \* \*

(d) TERMS AND CONDITIONS.—The [Director] Administrator shall establish such other terms and conditions as the [Director] Administrator considers necessary and proper to carry out this section.

\* \* \* \* \*

(f) ALLOCATION OF FUNDS.—For each fiscal year concerned, the [Director] Administrator shall allocate to each State, in accordance with regulations and the total sum appropriated under this title, amounts to be made available to the States for the purposes of this section. Regulations governing allocations to the States under this subsection shall give due regard to (1) the criticality of the areas which may be affected by hazards with respect to the development of the total emergency preparedness readiness of the United States, (2) the relative state of development of emergency preparedness readiness of the State, (3) population, and (4) such other factors as the [Director] Administrator shall prescribe. The [Director] Administrator may reallocate the excess of any allocation not used by a State in a plan submitted under this section. Amounts paid to any State or political subdivision under this section shall be expended solely for the purposes set forth in this section.

(g) STANDARDS FOR STATE AND LOCAL EMERGENCY PREPAREDNESS OPERATIONAL PLANS.—In approving standards for State and local emergency preparedness operational plans pursuant to subsection (b)(3), the [Director] Administrator shall ensure that such plans take into account the needs of individuals with household pets and service animals prior to, during, and following a major disaster or emergency.

(h) SUBMISSION OF PLAN.—If a State fails to submit a plan for approval as required by this section within 60 days after the [Director] Administrator notifies the States of the allocations under this section, the [Director] Administrator may reallocate such funds, or portions thereof, among the other States in such amounts as, in the judgment of the [Director] Administrator, will best assure the adequate development of the emergency preparedness capability of the United States.

(h) ANNUAL REPORTS.—The [Director] Administrator shall report annually to the Congress all contributions made pursuant to this section.

\* \* \* \* \*

**SEC. 616. DISASTER RELATED INFORMATION SERVICES.**

(a) **IN GENERAL.**—Consistent with section 308(a), the **[Director] Administrator** of Federal Emergency Management Agency shall—

(1) \* \* \*

\* \* \* \* \*

(b) **GROUP SIZE.**—For purposes of subsection (a), the **[Director] Administrator** of Federal Emergency Management Agency shall define the size of a population group.

**SEC. 617. EMERGENCY MANAGEMENT ASSISTANCE COMPACT GRANTS.**

(a) **IN GENERAL.**—*The Administrator may make grants to provide for implementation of the Emergency Management Assistance Compact consented to by Congress in the joint resolution entitled “Joint resolution granting the consent of Congress to the Emergency Management Assistance Compact” (Public Law 104–321; 110 Stat. 3877).*

(b) **ELIGIBLE GRANT RECIPIENTS.**—*States and the Administrator of the Emergency Management Assistance Compact shall be eligible to receive grants under subsection (a).*

(c) **USE OF FUNDS.**—*A grant received under this section shall be used—*

*(1) to carry out recommendations identified in the Emergency Management Assistance Compact after-action reports for the 2004 and 2005 hurricane seasons;*

*(2) to administer compact operations on behalf of States, as such term is defined in the compact, that have enacted the compact;*

*(3) to continue coordination with the Agency and appropriate Federal agencies;*

*(4) to continue coordination with States and local governments and their respective national organizations; and*

*(5) to assist State and local governments, emergency response providers, and organizations representing such providers with credentialing the providers and the typing of emergency response resources.*

(d) **COORDINATION.**—*The Administrator shall consult with the Administrator of the Emergency Management Assistance Compact to ensure effective coordination of efforts in responding to requests for assistance.*

(e) **AUTHORIZATION OF APPROPRIATIONS.**—*There is authorized to be appropriated to carry out this section \$4,000,000 for each of fiscal years 2010, 2011, and 2012. Such sums shall remain available until expended.*

## **Subtitle B—General Provisions**

**SEC. 621. ADMINISTRATIVE AUTHORITY.**

(a) **IN GENERAL.**—For the purpose of carrying out the powers and duties assigned to the **[Director] Administrator** under this title, the **[Director] Administrator** may exercise the administrative authorities provided under this section.

(b) **ADVISORY PERSONNEL.**—(1) The **[Director] Administrator** may employ not more than 100 part-time or temporary advisory personnel (including not to exceed 25 subjects of the United King-

dom or citizens of Canada) as the **[Director]** *Administrator* considers to be necessary in carrying out the provisions of this title.

(2) Persons holding other offices or positions under the United States for which they receive compensation, while serving as advisory personnel, shall receive no additional compensation for such service. Other part-time or temporary advisory personnel so employed may serve without compensation or may receive compensation at a rate not to exceed \$180 for each day of service, plus authorized subsistence and travel, as determined by the **[Director]** *Administrator*.

(c) SERVICES OF OTHER AGENCY PERSONNEL AND VOLUNTEERS.—The **[Director]** *Administrator* may—

(1) \* \* \*

\* \* \* \* \*

(d) GIFTS.—Notwithstanding any other provision of law, the **[Director]** *Administrator* may accept gifts of supplies, equipment, and facilities and may use or distribute such gifts for emergency preparedness purposes in accordance with the provisions of this title.

(e) REIMBURSEMENT.—The **[Director]** *Administrator* may reimburse any Federal agency for any of its expenditures or for compensation of its personnel and use or consumption of its materials and facilities under this title to the extent funds are available.

(f) PRINTING.—The **[Director]** *Administrator* may purchase such printing, binding, and blank-book work from public, commercial, or private printing establishments or binderies as the **[Director]** *Administrator* considers necessary upon orders placed by the Public Printer or upon waivers issued in accordance with section 504 of title 44, United States Code.

(g) RULES AND REGULATIONS.—The **[Director]** *Administrator* may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this title and perform any of the powers and duties provided by this title. The **[Director]** *Administrator* may perform any of the powers and duties provided by this title through or with the aid of such officials of the Federal Emergency Management Agency as the **[Director]** *Administrator* may designate.

(h) FAILURE TO EXPEND CONTRIBUTIONS CORRECTLY.—(1) When, after reasonable notice and opportunity for hearing to the State or other person involved, the **[Director]** *Administrator* finds that there is a failure to expend funds in accordance with the regulations, terms, and conditions established under this title for approved emergency preparedness plans, programs, or projects, the **[Director]** *Administrator* may notify such State or person that further payments will not be made to the State or person from appropriations under this title (or from funds otherwise available for the purposes of this title for any approved plan, program, or project with respect to which there is such failure to comply) until the **[Director]** *Administrator* is satisfied that there will no longer be any such failure.

(2) Until so satisfied, the **[Director]** *Administrator* shall either withhold the payment of any financial contribution to such State or person or limit payments to those programs or projects with respect to which there is substantial compliance with the regulations,

terms, and conditions governing plans, programs, or projects hereunder.

\* \* \* \* \*

**SEC. 622. SECURITY REGULATIONS.**

(a) **ESTABLISHMENT.**—The **[Director]** *Administrator* shall establish such security requirements and safeguards, including restrictions with respect to access to information and property as the **[Director]** *Administrator* considers necessary.

(b) **LIMITATIONS ON EMPLOYEE ACCESS TO INFORMATION.**—No employee of the Federal Emergency Management Agency shall be permitted to have access to information or property with respect to which access restrictions have been established under this section, until it shall have been determined that no information is contained in the files of the Federal Bureau of Investigation or any other investigative agency of the Government indicating that such employee is of questionable loyalty or reliability for security purposes, or if any such information is so disclosed, until the Federal Bureau of Investigation shall have conducted a full field investigation concerning such person and a report thereon shall have been evaluated in writing by the **[Director]** *Administrator*.

(c) **NATIONAL SECURITY POSITIONS.**—No employee of the Federal Emergency Management Agency shall occupy any position determined by the **[Director]** *Administrator* to be of critical importance from the standpoint of national security until a full field investigation concerning such employee shall have been conducted by the Director of the Office of Personnel Management and a report thereon shall have been evaluated in writing by the **[Director]** *Administrator* of the Federal Emergency Management Agency. In the event such full field investigation by the Director of the Office of Personnel Management develops any data reflecting that such applicant for a position of critical importance is of questionable loyalty or reliability for security purposes, or if the **[Director]** *Administrator* of the Federal Emergency Management Agency for any other reason considers it to be advisable, such investigation shall be discontinued and a report thereon shall be referred to the **[Director]** *Administrator* of the Federal Emergency Management Agency for evaluation in writing. Thereafter, the **[Director]** *Administrator* of the Federal Emergency Management Agency may refer the matter to the Federal Bureau of Investigation for the conduct of a full field investigation by such Bureau. The result of such latter investigation by such Bureau shall be furnished to the **[Director]** *Administrator* of the Federal Emergency Management Agency for action.

(d) **EMPLOYEE OATHS.**—Each Federal employee of the Federal Emergency Management Agency acting under the authority of this title, except the subjects of the United Kingdom and citizens of Canada specified in section 621(b), shall execute the loyalty oath or appointment affidavits prescribed by the **[Director]** *Administrator* of the Office of Personnel Management. Each person other than a Federal employee who is appointed to serve in a State or local organization for emergency preparedness shall before entering upon duties, take an oath in writing before a person authorized to administer oaths, which oath shall be substantially as follows: I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies,

foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (or affirm) that I do not advocate, nor am I a member or an affiliate of any organization, group, or combination of persons that advocates the overthrow of the Government of the United States by force or violence; and that during such time as I am a member of \_\_\_\_\_ (name of emergency preparedness organization), I will not advocate nor become a member or an affiliate of any organization, group, or combination of persons that advocates the overthrow of the Government of the United States by force or violence." After appointment and qualification for office, the director of emergency preparedness of any State, and any subordinate emergency preparedness officer within such State designated by the director in writing, shall be qualified to administer any such oath within such State under such regulations as the director shall prescribe. Any person who shall be found guilty of having falsely taken such oath shall be punished as provided in section 1621 of title 18, United States Code.

**SEC. 623. USE OF EXISTING FACILITIES.**

In performing duties under this title, the [Director] *Administrator*—

(1) \* \* \*

\* \* \* \* \*

(3) shall refrain from engaging in any form of activity which would duplicate or parallel activity of any other Federal department or agency unless the [Director] *Administrator*, with the written approval of the President, shall determine that such duplication is necessary to accomplish the purposes of this title.

**SEC. 624. ANNUAL REPORT TO CONGRESS.**

The [Director] *Administrator* shall annually submit a written report to the President and Congress covering expenditures, contributions, work, and accomplishments of the Federal Emergency Management Agency pursuant to this title, accompanied by such recommendations as the [Director] *Administrator* considers appropriate.

\* \* \* \* \*

**SEC. 629. MINORITY EMERGENCY PREPAREDNESS DEMONSTRATION PROGRAM.**

(a) IN GENERAL.—The [Director] *Administrator* shall establish a minority emergency preparedness demonstration program to research and promote the capacity of minority communities to provide data, information, and awareness education by providing grants to or executing contracts or cooperative agreements with eligible nonprofit organizations to establish and conduct such programs.

\* \* \* \* \*

(e) APPLICATION AND REVIEW PROCEDURE.—To be eligible to receive a grant, contract, or cooperative agreement under this section, an organization must submit an application to the [Director]

*Administrator* at such time, in such manner, and accompanied by such information as the **[Director]** *Administrator* may reasonably require. The **[Director]** *Administrator* shall establish a procedure by which to accept such applications.

\* \* \* \* \*

**TITLE VII—MISCELLANEOUS**

**AUTHORITY TO PRESCRIBE RULES AND ACCEPT GIFTS**

SEC. 701. (a) \* \* \*

(b) In furtherance of the purposes of this Act, the President or his delegate may accept and use, *through any means including grants*, bequests, gifts, or donations of service, money, or property, real, personal, or mixed, tangible, or intangible. All sums received under this subsection shall be deposited in a separate fund on the books of the Treasury and shall be available for expenditure upon the certification of the President or his delegate. At the request of the President or his delegate, the Secretary of the Treasury may invest and reinvest excess monies in the fund. Such investments shall be in public debt securities with maturities suitable for the needs of the fund and shall bear interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The interest on such investments shall be credited to, and form a part of, the fund.

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**TITLE 5, UNITED STATES CODE**

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**PART III—EMPLOYEES**

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**SUBPART G—INSURANCE AND ANNUITIES**

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**CHAPTER 81—COMPENSATION FOR WORK INJURIES**

**SUBCHAPTER I—GENERALLY**

**§ 8101. Definitions**

For the purpose of this subchapter—

(1) “employee” means—

(A) \* \* \*

\* \* \* \* \*

(D) an individual employed by the government of the District of Columbia; **[and]**

\* \* \* \* \*

(F) an individual selected pursuant to chapter 121 of title 28, United States Code, and serving as a petit or grand juror; and

(G) an individual who is a System member of the National Urban Search and Rescue Response System during a period of appointment into Federal service pursuant to section 328 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act;

\* \* \* \* \*

**TITLE 38, UNITED STATES CODE**

\* \* \* \* \*

**PART III—READJUSTMENT AND RELATED BENEFITS**

\* \* \* \* \*

**CHAPTER 43—EMPLOYMENT AND REEMPLOYMENT RIGHTS OF MEMBERS OF THE UNIFORMED SERVICES**

**SUBCHAPTER I—GENERAL**

\* \* \* \* \*

**§ 4303. Definitions**

For the purposes of this chapter—

(1) \* \* \*

\* \* \* \* \*

(13) The term “service in the uniformed services” means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty, *a period for which a System member of the National Urban Search and Rescue Response System is absent from a position of employment due to an appointment into Federal service under section 328 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act*, and a period for which a person is absent from employment for the purpose of performing funeral honors duty as authorized by section 12503 of title 10 or section 115 of title 32.

\* \* \* \* \*

(16) The term “uniformed services” means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, *System members of the National Urban Search and Rescue Response System during a period of appointment into Federal service under section 328 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act*, and

any other category of persons designated by the President in time of war or national emergency.

\* \* \* \* \*

**POST-KATRINA EMERGENCY MANAGEMENT REFORM ACT OF 2006**

\* \* \* \* \*

**TITLE VI—NATIONAL EMERGENCY MANAGEMENT**

\* \* \* \* \*

**Subtitle C—Comprehensive Preparedness System**

\* \* \* \* \*

**CHAPTER 2—ADDITIONAL PREPAREDNESS**

**SEC. 661. EMERGENCY MANAGEMENT ASSISTANCE COMPACT GRANTS.**

[(a) IN GENERAL.—The Administrator may make grants to administer the Emergency Management Assistance Compact consented to by the Joint Resolution entitled “Joint Resolution granting the consent of Congress to the Emergency Management Assistance Compact” (Public Law 104–321; 110 Stat. 3877).

[(b) USES.—A grant under this section shall be used—

[(1) to carry out recommendations identified in the Emergency Management Assistance Compact after-action reports for the 2004 and 2005 hurricane season;

[(2) to administer compact operations on behalf of all member States and territories;

[(3) to continue coordination with the Agency and appropriate Federal agencies;

[(4) to continue coordination with State, local, and tribal government entities and their respective national organizations; and

[(5) to assist State and local governments, emergency response providers, and organizations representing such providers with credentialing emergency response providers and the typing of emergency response resources.

[(c) COORDINATION.—The Administrator shall consult with the Administrator of the Emergency Management Assistance Compact to ensure effective coordination of efforts in responding to requests for assistance.

[(d) AUTHORIZATION.—There is authorized to be appropriated to carry out this section \$4,000,000 for fiscal year 2008. Such sums shall remain available until expended.]

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